

**Secretary's Semiannual
Management Report
U.S. Department of Labor**



April 1 - September 30, 1991



VL

COMPLETED

BEST COPY AVAILABLE

Secretary's Semiannual Management Report U.S. Department of Labor

U.S. Department of Labor
Lynn Martin, Secretary

April 1, 1991 - September 30, 1991

BLANK PAGE

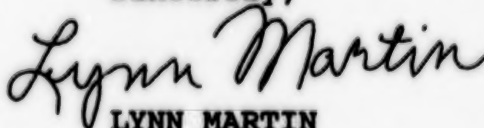
I am pleased to provide the Department's fourth Management Report prescribed under the Inspector General Act Amendments of 1988 (Public Law 100-504). Cooperative efforts continue between Departmental management, all agencies of the Department, and the Office of the Inspector General to meet both the spirit and letter of the Act. As a result, Departmental management continues to give a high priority to the status of audit follow up.

Section IV of this report provides the audit resolution detail prescribed by the amendments to the Act. I continue to believe that limiting the Department's Semiannual Management Report to this level of detail provides a narrow focus and gives the impression that management efforts are limited to reacting to problems identified in audit reports. Reporting on management accomplishments and initiatives, together with the record of accountability for audit resolution, provides a more balanced picture of the Department's stewardship over its programs.

Section I of the report highlights my recently announced program to dismantle the glass ceiling. This invisible barrier is adversely affecting qualified minorities and women from moving up into management jobs. The Department is also exploring the use of alternative dispute resolution as a way of managing increasing administrative and litigation workloads. Good progress has already been made, and efforts will continue to strengthen the Department's enforcement programs. The last major initiative being highlighted in this report is the Department's efforts in establishing workplace substance abuse programs for the private sector with a focus on small businesses.

The Department has worked effectively with the Office of the Inspector General (OIG) to resolve audits within the required six month time frame. However, the OIG Semiannual Report notes a few exceptions in which resolution has not been reached. These exceptions involve audits subject to litigation in the Federal courts or under administrative law review; audits in some programs which are subject by statute to formal resolution procedures which could take a year or more; and other audits addressing complex management issues that simply require a longer period of time to correct the problems identified.

Sincerely,


LYNN MARTIN

BLANK PAGE

TABLE OF CONTENTS

Foreword.....	VII
 I. Major Department of Labor Initiatives	
Glass Ceiling	1
Alternative Dispute Resolution	3
Strengthening the Department's Enforcement Programs	6
Workplace Substance Abuse Program	8
 II. Accomplishments of Department of Labor Agencies	
Employment and Training Administration.....	11
Veterans' Employment and Training Service.....	20
Employment Standards Administration.....	21
Mine Safety and Health Administration.....	27
Occupational Safety and Health Administration.....	31
Office of the Solicitor.....	34
Pension and Welfare Benefit Administration.....	37
Bureau of Labor Statistics.....	43
Office of the Assistant Secretary for Administration and Management.....	43
 III. Federal Managers' Financial Integrity Act Update	
Updates of the Department's Identified Material Weaknesses.....	47
 IV. Management's Audit Resolution and Closure Activity (October 1, 1990 through March 31, 1991)	
Exhibit I - Summary Management Figures.....	57
Exhibit II - Summary of Disallowed Audit Costs.....	59
Exhibit III - Status of Recommendations in Open Audits.....	61
Exhibit IV - Open Monetary Audits.....	67
Open Non-Monetary Audits.....	73
Exhibit V - Summary of Audit Reports With Recommendations to Put Funds to Better Use.....	87

BLANK PAGE

FOREWORD

The Department of Labor faces many new challenges and opportunities in the 1990's. The Department is playing a pivotal, dynamic role on behalf of American workers. In a very broad sense, the overall Department's mission has encompassed six major objectives.

First, to improve the quality of the work force by ensuring that American workers are the world's best trained and most highly skilled -- placing special emphasis on the disadvantaged among us to ensure their full participation in the opportunity that lies ahead.

Second, to ensure that the American work place is as safe, as healthy, and as secure as we can make it.

Third, to develop a sound and comprehensive pension policy that brings a measure of rationality to the demographic and social changes now upon us.

Fourth, to ensure fair and vigorous enforcement of labor laws.

Fifth, to empower the individual employee by encouraging employers to enhance flexibility in their work place leading toward increased productivity and efficiency.

And last, to ensure that relationships between management and labor continue to move beyond the tradition of confrontation toward productive and affirmative cooperation on behalf of interests held in common.

In the first section of this Semiannual Management Report, we highlight four of the major initiatives the Department was involved with during the reporting period. They are the glass ceiling program announced by the Secretary, alternative dispute resolution, continuing efforts to strengthen the Department's enforcement programs, and the Department's initial efforts to establish workplace substance abuse programs for the private sector. Significant progress also continues to be made in addressing the remainder of the Department's missions which have been included in Section II., Accomplishments of Department of Labor Agencies.

I. Major Department of Labor Initiatives

Glass Ceiling

Secretary of Labor Lynn Martin recently announced a program to dismantle the glass ceiling -- the invisible barrier keeping qualified minorities and women from moving up into management jobs.

Martin said, "The glass ceiling where it exists, hinders not only individuals, but society as a whole. It effectively cuts our pool of potential corporate leaders by eliminating over one-half of our population. It deprives our economy of new leaders, new sources of creativity -- the 'would be' pioneers of the business world. If our end game is to compete successfully in today's global market, then we have to unleash the full potential of the American workforce. The time has come to tear down, to dismantle, to remove and to shatter -- the 'Glass Ceiling'."

The Department's program is designed to promote a quality, inclusive and diverse workforce capable of meeting the challenge of global competition. The program contains four parts:

- * An Internal Educational Effort -- to educate the Department's officials in the intricacies of corporate human resource issues and establish communications and a working dialogue on the issues surrounding the glass ceiling initiative.

- * Encourage Voluntary Efforts -- a broad-based public awareness effort to serve as a catalyst to foster voluntary efforts within the corporate community to remove any barriers which may exist to the advancement of minorities and women into management positions. The Department will act as a clearinghouse and resource of information so that Federal contractors can receive assistance in their efforts;

- * Corporate Management Reviews -- to conduct compliance reviews of Federal contractors. The Department's Office of Federal Contract Compliance Programs (OFCCP) reviews companies' policies to make sure there is no discrimination on the basis of race, sex, color, religion, national origin, disability, or veteran status, and that contractors actively recruit qualified workers from all segments of the labor force, and assure that training and advancement opportunities are equally afforded to all employees; and

*** Public Recognition and Reward** -- to give recognition and reward to those companies which have undertaken a particularly creative and effective program to assure equal opportunity.

The Secretary released a report which studied nine Fortune 500 Companies and found a "Glass Ceiling" to be at the mid to lower management level and found minorities significantly behind women in terms of advancement.

Martin, in the report, outlines a pilot project conducted by the Department's Office of Federal Contract Compliance Programs, which combined extensive research of available data, compliance reviews of nine companies as well as discussions with business groups, civil rights groups, and other interested groups.

The report lists specific findings from the nine Fortune 500 company compliance reviews and identifies business-wide barriers to the advancement of women and minorities. The compliance reviews found that promotional practices create a plateau for women and minorities; that companies must give priority to ensuring that their promotional practices are monitored and include diverse pools of applicants; that companies often stereotype individuals into positions that are not in line for advancement; and companies lack recordkeeping to monitor how individuals are promoted.

The barriers to advancement of women and minorities were found to be the manner in which new job openings are advertised or lack of advertising; the use of executive search firms which often do not include women and minorities in those recommended; the lack of access for women and minorities to training and development programs, including foreign assignments, special projects and so-called line duty -- experiences to enhance academic and work-related credentials; and a lack of knowledge at the top levels of corporations regarding equal employment opportunity responsibilities and evaluation.

"In conducting the glass ceiling reviews, we found that we cannot generalize about corporate practices. Every company is different," Secretary Martin said. "We want to be the catalyst for change. We have not and will not act as personnel directors who dictate from a distance who should be hired, fired, or promoted."

"In fact, we have discovered a number of companies who are on the cutting edge of promoting diversity in the workforce. Their efforts include aggressively recruiting minorities and women through external recruitment efforts, making 'deputy' assignments and using these positions as training grounds for developing

minorities and women as 'high potential' managers and increasing executive accountability for cultural changes," Secretary Martin said.

"Most of the companies we reviewed truly believed they were fulfilling their obligations as Federal contractors. Each company, because of differences in the nature of its business, its corporate culture, had different methods for developing individuals. But they all had one thing in common -- they didn't make these opportunities as available to minorities and women. And they didn't monitor these experiences, like special training or sitting on corporate task forces and committees, for equal opportunity and access."

"A number of progressive corporations already have taken a good, hard look at themselves and initiated efforts to assure they have both a qualified and diverse workforce: some -- but not all. And right now, America cannot afford to deny opportunity and ignore merit. We must do everything in our power to ensure that each and every individual counts. When the litmus test for success is ability, and ability alone, only then can we become a color and sex blind society," Martin said.

"Over the next decade, white males will make up only 15 percent of the net growth in our workforce," Martin said, "American businesses are beginning to understand that their bottom line success may well depend on recruiting, training, and retraining the best possible workforce. Given today's demographics," Martin says in the report, "that means recruiting minorities -- including the physically handicapped -- and women."

Martin said that she intends to "use the bully pulpit as Secretary of Labor to encourage every corporation to develop its own strategy that will allow all employees to realize their maximum potential," and pledged that "the Department will act as an informative clearinghouse to provide guidance to assist firms in meeting their affirmative action obligations."

Alternative Dispute Resolution

The Administration, in particular the Vice President's Council on Competitiveness, has strongly supported alternative dispute resolution (ADR) as a means to slow the national growth in litigation and in the private and public resources spent on litigation. The Secretary has committed the Department to exploring the use of ADR to the maximum extent possible as a way of managing increasing administrative and litigation workloads.

In response to the Administrative Dispute Resolution Act of 1990, the Department will develop a general policy which encourages

greater use of ADR techniques whenever the parties involved agree to them and it is practical and desirable to do so.

ADR methods include mediation, minitrials, settlement judges and other informal techniques aimed at reaching a consensual resolution of disputes. The ADR Act also mentions the technique of negotiated rulemaking, a consensus-building process for developing regulations. The criteria for using Negotiated Rulemaking are set forth in more detail in the Negotiated Rulemaking Act of 1990, which was passed as companion legislation. The Administrative Conference of the United States (ACUS) is overseeing the Federal Government's implementation of these Acts. The Federal Mediation and Conciliation Service (FMCS) is providing agencies with technical assistance and training.

ADR techniques are not appropriate in every situation. For example, some forms of ADR, especially arbitration, should not be used for precedent setting cases, those cases where a formal record is essential, and some cases bearing on significant policy questions. Thus, ADR is not intended to replace traditional litigation, but to remove from formal channels those disputes which can be resolved satisfactorily in an informal setting.

Within such limitations, the Department plans to explore use of ADR techniques for resolving disputes in connection with formal and informal adjudications, enforcement actions, rulemakings, contract administration, internal employee grievances and equal employment opportunity complaints, and litigation brought by or against any DOL agency. In addition, the Department will determine whether any of its operating policies and procedures, regulations, and statutes need to be modified to allow for greater use of ADR.

In enacting the Negotiated Rulemaking statute, the Congress found that traditional rulemaking procedures often result in costly and time-consuming litigation. In a Negotiated Rulemaking process, a committee of representatives of the regulated community, interested parties and the responsible Federal agency actually draft the proposed regulation. The proposal is then published for public notice and comment in the normal fashion. The goal of Negotiated Rulemaking is to produce a consensual regulation which is better tailored to the practical realities of the regulated community and less likely to be challenged in litigation by interested parties.

Steps Underway to Implement the Legislation

Beginning in the Spring of 1991, the Department started the process of implementing the ADR and Negotiated Rulemaking Acts:

- The Secretary named the Assistant Secretary for Policy as the Department's ADR specialist to serve as a focal point for the legislation and to work with ACUS, FMCS, and other Federal agencies on implementation.
- The Secretary established a Steering Committee to study potential areas for ADR in the Department and make recommendations on pilot tests, implementation plans, timetables, and resources for carrying out these tasks. This Committee consists of the Deputy Secretary, the Solicitor, the Inspector General, the Assistant Secretary for Administration and Management, and the Director of the DOL Academy. The Committee is chaired by the Assistant Secretary for Policy.
- ADR contact persons have been identified in each DOL agency to assist the Steering Committee and serve as coordinators for their organizations.
- On May 22, 1991, the Department published a Federal Register notice inviting interested parties to submit comments on how the Department should implement ADR (including Negotiated Rulemaking) and to suggest specific DOL activities which should be considered for ADR. Analysis of the comments received is continuing.
- On May 29, 1991, over 75 of the Department's managers and attorneys participated in an ADR briefing by a panel of experts in this area from the Administrative Conference of the United States and several Federal agencies that have had experience in ADR. Additional training efforts are being planned.
- The Department has instituted a system for considering the use of Negotiated Rulemaking procedures for each advance notice of proposed rulemaking.
- The Department's agencies are inventorying the types of disputes they encounter, the methods currently used to resolve them, possible areas in which ADR might play a role, and the statutory, regulatory and procedural barriers to the use of ADR.
- With the assistance of ACUS and FMCS, plans are being developed for testing ADR in one region in FY 1992. This will include training and using in-house mediators to expedite a sample of DOL cases.

Strengthening the Department's Enforcement Programs

DOL is one of the largest law enforcement agencies in the United States government. It seeks appropriate penalties for those who willfully disregard the law, while providing education and technical assistance to those who make good faith efforts to comply. In October 1990, the Department of Labor (DOL or the Department) completed a thorough evaluation of its enforcement programs. This process culminated in an in-depth document entitled "Report to the Secretary of the Enforcement Task Force," which was summarized in the November 1990 Secretary's Semi-Annual Management Report. Secretary Martin has reviewed and accepted certain recommendations in that report. She has included those recommendations and certain other proposals of the enforcement agencies in her stated goals of the Department.

In general, these initiatives are based upon a comprehensive enforcement strategy to achieve compliance with the statutes and regulations under the jurisdiction of the Department. This three-pronged strategy is based upon: (1) promoting voluntary compliance; (2) detecting, correcting, and deterring violations; and (3) using third party conduct where appropriate to maximize the Department's overall enforcement impact.

Listed below are some of the significant enforcement activities that have taken place since the last semi-annual report.

Voluntary Compliance

Voluntary compliance is encouraged through a variety of means, including consultation, technical assistance and dissemination of various written materials. For example, DOL staff have recently developed a working draft of a handbook describing the programs, statutes and technical assistance services administered by the Department. A contract has been awarded to circulate this document on a limited basis for evaluation purposes. This evaluation is expected to be completed by the Spring of 1992.

Detection, Correction and Deterrence

In addition to encouraging voluntary compliance, each enforcement agency uses some combination of audits, reviews, inspections, complaints, referrals, investigations and other activities to detect violations and to achieve compliance. If specific violations are detected, corrective action is proposed and, where permitted by statute, compensation is sought for those harmed in appropriate cases. Deterrence is effected through the imposition of civil penalties and criminal sanctions. Generally, penalties

are assessed on a progressive basis, depending upon the nature and severity of the violations. Examples of DOL activities in this area include the following:

- * Several agencies have modified or are in the process of modifying aspects of their civil penalty assessment systems, in part, to increase their deterrent value;
- * A criminal enforcement training task force, chaired by the DOL Academy, has been established to develop a DOL criminal investigator training course (either internally or with the help of the Federal Law Enforcement Training Center);
- * A committee has been formed, also chaired by the DOL Academy, to evaluate methods to cross-train investigative personnel to identify potential violations of regulations administered by other agencies within the Department;
- * The DOL enforcement database steering committee, chaired by OASP, has completed the feasibility study on an automated system to present summary level enforcement information to senior management and has presented its findings to the PRB (a pilot system is expected to be operational in the first quarter of FY92); and
- * All of the enforcement agency criminal enforcement coordinators are in place and are in the process of implementing the Enforcement Task Force's recommendations to improve criminal enforcement (e.g., developing a criminal prosecution guide and improving the case selection criteria).

Departmental Oversight and Coordination

Although each DOL program agency is generally responsible for the overall management of its programs, the Department's Policy Review Board (PRB) also performs very important oversight functions, including review, evaluation and coordination of enforcement programs. Much of the PRB's activity in FY 1991 concerning enforcement continued to address various revisions to agency civil penalty structures. In addition, the chair, the Acting Assistant Secretary for Policy, met with criminal enforcement coordinators to discuss agency efforts to improve criminal enforcement. Finally, the OIG has recently completed another audit of DOL's enforcement efforts (including the progress made in implementing the Enforcement Task Force's recommendations and correcting the deficiencies cited in the 1990 Federal Managers' Financial Integrity Act report) as part of its continuing auditing role.

Summary

The Department is committed to a balanced approach to enforcement based upon the policy of providing help to those who need assistance, deterring and correcting violations, and progressively penalizing those who disregard the law. The Department looks forward to a continuing dialogue with the regulated and protected communities, with a view towards increased compliance with the many and varied statutory and regulatory requirements that DOL enforces.

Workplace Substance Abuse Program

Until recently, the problem of substance abuse in the workplace has been largely unrecognized. However, with an estimated 68 percent of those who use illegal drugs employed either full or part time and 1 in 10 people with an alcohol problem, substance abuse is placing a heavy burden on American business, both large and small. Gross estimates of the overall costs of substance abuse on business have been as high as \$200 billion a year. Substance abuse is creating workplace health and safety problems, lost productivity, and increased health care costs.

Although the high prevalence and staggering costs to business are of great concern, there is good reason to be optimistic about the potential success of addressing the problem of substance abuse in the workplace. A 1986 Conference Board report states that persons with addictive disorders often value their jobs more highly than their families or other social support networks. Faced with the threat of job loss, the addicted employee is more likely to seek treatment. It is this key factor that makes the workplace unique and provides the concerned employer with the fulcrum to effectively address the problem of substance abuse in the workplace.

The Department of Labor has taken the position that the best way for the workplace to address the problem of substance abuse is for each workplace in the nation to establish a comprehensive substance abuse program which meets the specific needs and culture of that individual workplace. A comprehensive substance abuse program typically includes a written substance abuse policy, an employee education and awareness program, a supervisor training program, an employee assistance program, and drug testing as appropriate. While we recognize that such a goal is an "ideal," particularly for small businesses, it serves to keep the focus on what we believe is the most effective action that employers can take to deal with substance abuse.

The Department has been involved with the problem of workplace substance abuse since 1985 and more heavily since the passage of the Anti-Drug Abuse Act of 1986. Activities have included the development of multiple publications, the conduct of a nationwide survey to collect information on employer anti-drug programs, the development of training packages including videotapes, the conduct of an Employee Assistance Grant Program, the sponsorship of an international symposium on drugs and alcohol, and participation in pilot programs to provide prevention and treatment in training centers. In addition, DOL sits on numerous Federal task forces, work groups, and committees formed to address workplace substance abuse issues.

During the coming year, the Department will be involved in several major initiatives designed to promote the establishment of workplace substance abuse programs in the private sector and especially in small businesses.

- o A national workplace substance abuse conference will be held in Washington, D.C. in the summer of 1992. This conference will highlight the importance of addressing the problem of workplace substance abuse, showcase successful programs that operate in a variety of environments, and develop a national agenda outlining necessary public and private sector initiatives at the Federal, State, and local levels to achieve the goal of establishing a workplace substance abuse program in every work environment.
- o A national information campaign will be planned and initiated. This campaign will utilize existing communications resources both within and outside the Department and will promote, to employers and employees alike, the need for and benefits of a workplace free from substance abuse.
- o A pilot of the Department's electronic substance abuse information system will be conducted to determine its responsiveness to the needs of the small business community and its ability to provide easy access to the information contained therein.
- o An evaluation of employee assistance and drug testing programs, as mandated by the Office of Management and Budget, will be initiated in collaboration with the National Institute on Drug Abuse.

- o An evaluation of the DOL Employee Assistance Grant Program will be completed with special emphasis on assessing the grants which provide assistance to the small business community. This evaluation will identify the elements of success and provide recommendations on the structure and operation of any subsequent grant program the Department sponsors.

II. Accomplishments of Department of Labor Agencies

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Upgrading the Quality of Our Workforce

Upgrading the quality of our workforce--current and future--continues to be the focus of the DOL's employment and training initiatives. As more jobs are created which place higher demands on the workforce, we are challenged to find ways to eliminate skill level and attitudinal barriers to employment. As technology and new work processes continually upgrade the workplace, we will also need to ensure that worker skill levels keep pace with changing job requirements. These challenges are being addressed by a multi-faceted Workforce Quality Agenda.

The Secretary's Commission on Achieving Necessary Skills (SCANS) issued its first report in July 1991. The report, entitled What Work Requires of Schools, identified core skills that constitute work readiness. The SCANS definitions have stimulated a national dialogue on workforce preparation and are the beginning of a process of bringing various segments of the community (schools, employers, parents) together to plan what can be done to better prepare young people, as well as current workers, for the future job market. The Commission was established by the Department, and it consists of senior-level representatives from the public and private sectors.

During the reporting period, Blueprint for Action: Building Community Coalitions was prepared. The publication will serve as a guide to the SCANS core skills and as a primer on building local coalitions to help promote the SCANS message.

The National Advisory Commission on Work-Based Learning began deliberations on occupational standards, high-performance work organizations, and other work-based learning issues. The Commission is charged with exploring ways to enhance the skill levels of the American workforce--from front line workers to senior managers--and to encourage employers to develop high performance systems that make better use of those talents and abilities. The Commission is composed of high-level officials from business, labor, education, and special interest groups.

In August 1991, the Department initiated a research project to study the impact of work reorganization on firm and employee performance. The American Society for Training and Development and Abt Associates will study management and work process changes in six firms that include both the manufacturing and service sectors.

The 2-year effort is intended to obtain information that will assist firms, particularly small to mid-size companies, in restructuring their management and work processes for high-quality performance.

The pilot school-to-work transition programs, funded by the Department, began enrolling students in September 1991. The program was launched in September 1990, and it involves six 2-year demonstration projects designed to make education more relevant to employment. The students will learn job-related subjects in a practical context, gain experience relevant to today's workplace, and become better prepared to enter the labor market.

The DOL and the Department of Health and Human Services (DHHS) jointly funded three research studies to enhance job skills and employment opportunities. These are:

- > A project involving six work demonstration programs to improve the employability of moderately to severely disabled youth and young adults;
- > A project consisting of three work demonstration programs to improve the employment prospects of criminally at risk youth who have been arrested before the age of 18; and
- > A Substance Abuse/Employment Assistance Program, under which persons who have participated in treatment programs receive job training.

The first five in a new series of Employment and Training Research and Evaluation Project Reports were issued during the period. The reports, the results of studies designed to improve the effectiveness of the Job Training Partnership Act (JTPA) operations, are entitled: (1) Improving the Quality of Training Under the JTPA, (2) JTPA Staffing and Staff Training at the State and Service Delivery Area (SDA) Levels, (3) Practical Guidance for Strengthening Private Industry Councils, (4) An Assessment of the JTPA Role in State and Local Coordination Activities, and (5) The Learning Disabled in Employment and Training Programs. The reports received wide distribution.

A Guide to High School Redirection, another publication designed to improve the education and training of at risk youth, was also issued.

JTPA Amendments

The Administration submitted legislation to Congress in May 1991 to amend the JTPA. The proposed legislation would improve targeting of services, increase program quality, increase coordination, and strengthen fiscal and program accountability.

Department staff worked with staff and members of Congress to expedite House and Senate action on a JTPA bill that is acceptable to the Administration.

JTPA Evaluation Projects

During this reporting period, ETA initiated several evaluation studies. One project, which is designed to enhance services to clients under JTPA, Title II-A, is evaluating best practices, including assessment, case management, and contracting practices. Another project is examining the effectiveness of training, employment, and support services provided by grantees under the JTPA Title IV Migrant and Seasonal Farmworker Program. A third evaluation is being conducted to determine the effectiveness of nine school-to-work projects in providing job-related training programs, which advance employment opportunities, improve skills, and prepare youth for transition from school to the labor force.

Economic Dislocation and Worker Adjustment Assistance Act

Dislocated Workers

The ETA initiated a Job Creation Demonstration Program. The program consists of six projects designed to assess the effectiveness of nonprofit community development corporations in creating employment and entrepreneurial opportunities for dislocated workers in urban and rural areas adversely impacted by job loss.

Coordinated Technical Assistance and Training (TAT) for Job Opportunities and Basic Skills Training (JOBS)

Under a joint venture between ETA, DHHS, and the Department of Education, a comprehensive TAT effort has been initiated, focusing on coordination of JOBS programs with other training and employment programs. The first of a series of workshops was conducted in six cities on effective program design. Additional workshops and other TAT efforts are planned on topics such as coordination and organization cultural change.

Apprenticeship

The Department continues to make significant progress in implementing a multi-faceted intra-departmental initiative to advance the employment opportunities for women and minorities in highly skilled, well-paid trades. The ETA's Bureau of Apprenticeship and Training (BAT) coordinates this effort with the Employment Standards Administration's (ESA's) Office of Federal Contract Compliance Programs (OFCCP) and the Women's Bureau (WB).

The ETA, ESA, and WB have jointly participated in the development of a Memorandum of Understanding, a working relationships agreement, and materials with which to train their respective staff in 29 CFR 30 Enforcement. The agencies have conducted five regional and one national office train-the-trainers session for managers, and are nearing completion of a second level of training for OFCCP field compliance officers.

The BAT and ETA's Public Affairs and Intergovernmental Affairs office are producing a video and two public service announcements for the initiative. The ETA is also developing three brochures promoting increased employment opportunities for women targeted at employers, women's organizations, and educational institutions.

Unemployment Insurance (UI)

The Unemployment Insurance Service is continuing its work on a series of innovative demonstration projects designed to assist UI recipients who are dislocated workers in returning to productive employment. These demonstrations are carefully-controlled experiments testing the cost-effectiveness of providing reemployment assistance to dislocated UI claimants early in their unemployment period. Reemployment services offered to dislocated claimants include intensive job search assistance, training, financial incentives to intensify job search (called "reemployment bonuses"), and combined financial and technical assistance in starting a small business. The demonstration services are provided through closely coordinated State service delivery systems linking UI with the Employment Service, JTPA, and Economic Development Agencies.

The results of the first completed study, the New Jersey Demonstration Project, show that early intervention services accelerated the reemployment of dislocated UI claimants in a cost-effective manner. All three service packages tested in the demonstration offered net benefits both to claimants and to society as a whole. The impacts of the job search assistance and the reemployment bonus were particularly strong. Four other UI demonstration projects are currently in progress.

Employment Service

Revision of the Dictionary of Occupational Titles (DOT) Occupational Analysis

A revised Fourth Edition DOT was published in September 1991, and was put on sale by the U.S. Government Printing Office. The DOT contains occupational titles, codes, occupational descriptions, and estimates of physical demands, amount of general education, and specific training required for 12,741 occupations. All entries in the revised edition have been reviewed; about 20 percent of the occupations are new or significantly changed since the previous edition. Significant changes in format were also made to make the DOT easier to use.

The DOT is generally considered the most comprehensive single source of information about occupations, as evidenced by a sale of some 300,000 copies of the Fourth Edition. While its original use was matching people and jobs, it has become widely used in vocational counseling, vocational rehabilitation, disability

determination, personnel management, career information systems, vocational education and training, occupational information and projections, and research.

Alien Certification and Implementing the New Immigration Laws **Alien Certification Automation**

The passage of the Immigration Reform Control Act in 1986 and its workload implications for the Department served as a significant stimulus for ETA to analyze and automate its existing Alien Certification processes.

The automation of the Alien Certification process has been a major priority for ETA for the past 2 years. The process is now completed, and all ETA Regional Offices are running an automated processing system. The system provides the means and comprehensive tools to track applications for alien employment, made by employers, to the State Employment Security Agency (SESA). It is characterized by case management principles: each application is date-stamped; professional staff receive automated prompts when action on each case is due; statements of work-in-progress (remands, notice of findings) are automatically generated; and relevant correspondence to the outside parties is easily created. This has resulted in greater responsiveness to employers and more comprehensive reporting and tracking of workload nationally. Processing for D-visa crewmembers, H-1B specialty workers, and F students as required by the Immigration Act of 1990 is incorporated into the automated processing system. This allows ETA to combine recordkeeping and many routine reports.

The next phase of computerization will include automating the 10-12 SESAs that process 90 percent of the application volume. Grants have been negotiated with 11 States for the development of fully automated application processing, prevailing wage data bases, and electronic transfer of application data to the Regional Offices. This system will be similar to the ETA Regional Office system, and will result in greater savings for the SESAs at a time when current workloads are anticipated to double.

Immigration Act of 1990

The interim final regulations for alien crewmembers (D-Visa) were published on May 30, 1991. The D-Visa program concerns crewmembers on foreign vessels performing longshore work at U.S. ports. This portion of the Act became effective on May 28, 1991. The remainder of the implementing regulations are scheduled for publication soon, since the programs under this section of the Act become effective on October 1, 1991. These programs include: H-1B (temporary professional workers) and F (foreign students working off-campus).

Job Corps

Job Corps serves a disadvantaged youth population with multiple barriers to employment. The typical youth served by Job Corps continues to be an 18 year old high school dropout who reads at the elementary school level, comes from an economically disadvantaged family, belongs to a minority group, and has never had a full-time job.

The unique combination of training and support services provided in the Job Corps program continues to result in positive outcomes for students in the areas of General Educational Development (GED) attainment, learning gains, social skills, vocational program completion, job placement, and placement in educational/training institutions. Several initiatives are underway to improve management of the Job Corps education program.

The developmental phase of a new Computer Managed Instruction (CMI) Academic Education Program has been completed. The areas updated include:

- o basic, graded, and advanced reading and mathematics;
- o writing and thinking skills;
- o GED; and
- o World of Work/Exit Readiness.

In addition, a cluster of six pre-college and advanced skill mini-courses in the areas of introduction to advanced education and training, computer literacy, thinking skills, oral communication, advanced writing, and advanced mathematics were developed as optional enhancement classes.

Pilot training at Gary, Clearfield, Pittsburgh, and Schenck Job Corps Centers has been completed. The pilot test of the new Academic Education Program and the corresponding CMI system is in progress, and is scheduled to be completed by December 1991. Prior to national training and implementation, revisions based on pilot results will be made to all project components.

Other education - vocational - residential living initiatives in progress are:

- * A 10-hour unit on Alcohol and Other Drugs of Abuse (AODA) was implemented during spring and summer 1991. The remaining units in the Health Education Program are scheduled to be revised into a competency-based curriculum by summer 1992. A workgroup comprised of Job Corps National Office staff, health consultants, and Job Corps Center health education specialists will identify essential competencies (skills) needed for each unit, preview and select resource materials, and make

recommendations for implementation at Job Corps Centers beginning fall 1992.

- * Job Corps initiated the English as a Second Language (ESL) curricula revision in response to a dramatic increase in the number of enrollees with little or no proficiency in spoken or written English. The new ESL curricula is currently in the developmental phase, and is scheduled for completion in November 1991.
- * Training of staff to implement the following new and/or revised programs has been completed, and the reproduction and delivery of the respective curriculum materials are underway.
 - o Social Skills Program;
 - o Parenting Education Program;
 - o AODA Education Unit; and
 - o Intergroup Relations Program.
- * As a result of pilot testing over the past 2 years, Job Corps Centers all over the country have geared up for system-wide validation of student competency using National Occupational Competency Testing Institute (NOCTI) tests. Training sessions were conducted by NOCTI for all center test administrators this summer. The purpose and benefits of developing a system-wide competency testing program are to:
 - provide an independent validation of student achievement;
 - supply data to centers for instructional improvement; and
 - promote employment of Job Corps students by business and industry.
- * The Job Corps vocational curriculum improvement process involves the evaluation of current curricula by Job Corps instructors and Industry Advisory Groups (IAGs). The IAGs are made up of both Job Corps vocational training instructors and industry experts and have proved to be an effective way to correct deficiencies and keep programs up to date. The update of one half of the vocational curricula was completed during this reporting period, and the other half is scheduled for completion in 1992.

Specialty Targeted Programs

Seasonal Farmworker Programs. The ETA's Division of Seasonal Farmworker Programs and the Departments of Education and Health and Human Services cosponsored a conference on migrant and seasonal farmworkers. Workshops were held to address farmworker issues and program coordination. The 1600 participants included JTPA Section 402, Migrant Health, Migrant Education and Migrant Head Start program operators, other practitioners, public officials, and growers from across the country.

Through a revision of the process of selecting Section 402 program grantees, ETA encouraged the following types of training in addition to the usual activities leading to unsubsidized employment: literacy, agricultural upgrading, and youth employability. Grant applicants were evaluated, in part, on their commitment to meet training goals in those designated areas. New performance standards were also issued for the farmworker programs to encourage more stable employment and skill development among program graduates.

Indian and Native American Programs. In July 1991, new performance standards were issued for the Indian and Native American programs to promote greater skill development and enhance employability among program participants, particularly those grantees located in remote areas where job opportunities are limited. In August and September 1991, ETA's Division of Indian and Native American Programs and Office of Strategic Planning and Policy Development held a series of regional workshops to address requests from Section 401 grantees and the JTPA Native American Programs' Advisory Committee for technical assistance on assessment and employability enhancement.

The workshops provided specific guidance and "hands-on" experience in conducting reading assessment of Section 401 clients, planning for the long-term employability of participants, and managing programs with the new employability enhancement performance standard measures. The goals of the workshops were to improve the capability of Section 401 grantees to assess reading levels, identify and access appropriate services (JTPA or otherwise) to promote participant growth and development, and improve program performance in enhancing the learning and skills gains of Section 401 participants.

Stewart B. McKinney Homeless Assistance Act (McKinney Act) **Homeless Program**

The ETA is continuing its work on the Job Training for the Homeless Demonstration Program initiative. The objective of the initiative is to provide training, job development, comprehensive supportive services, and housing programs intended to increase employment opportunities, improve job retention, and attain permanent housing for homeless persons. The ETA gave priority in the application

process for the initiative to those applicants who could obtain commitments from employers and housing providers. In April 1991, 20 grantees were selected from among 45 applications submitted under ETA's prior McKinney Act homeless job training demonstration program. An evaluation of the effectiveness of the initiative is underway.

The ETA is also evaluating its prior McKinney Act demonstration, which was operated from October 1988 through March 1991. In September 1991, ETA released an interim evaluation report, Job Training for the Homeless: Report on the Demonstration's First Year. Work on the final evaluation of this demonstration is underway, and is expected to be completed and report released by ETA in 1992.

Homeless persons are the target of yet another new interagency effort. Project participants are persons who reside in or around transportation facilities. The project is funded jointly by the Departments of Transportation, Labor, Agriculture, and Housing and Urban Development. The Department of Transportation is the lead agency, and DOL provides funds for job training.

Regional Automation System (RAS) Replacement/New Management Information System

In recognition of the need to improve the quality of the financial information provided to ETA and DOL managers, a new Grants and Contracts Management Information System (GCMIS) is being designed and implemented. This new state-of-the-art system will replace RAS, ETA's automated financial and management information system, which is 20 years old. Recent DOL Office of Inspector General (OIG) reports have repeatedly pointed out the inadequacies of the RAS system.

The GCMIS, when fully implemented, will be a totally integrated system which will contain information for ETA grants and contracts managers, budget managers, and accountants. Additionally, it will enable ETA to provide timely and accurate accounting data to the DOL Accounting and Related Systems (DOLAR\$), and better and more efficient service to JTPA and Employment Service clients.

Administrative Accountability

Oversight continues to be a major priority. The ETA has conducted two waves of special reviews at over 300 State and local SDA locations on procurement and OJT policies and practices. These reviews were intended to identify any deficiencies and secure prompt corrective actions to ensure program integrity. Follow-up on corrective actions for Waves I and II is currently being conducted. A third wave of special reviews is underway at additional SDAs. The ETA is also providing training on procurement policies and practices to the JTPA system. To date, the training has been presented at three of the five planned sites.

Finally, the accountability of ETA's systems and program funds has always been the highest priority. During the past 6 months of Fiscal Year 1991, as a result of resolving numerous OIG audits on DOL/ETA grantees/contractors, ETA issued 160 final determinations in which \$4,045,775 was determined to be "disallowed costs."

VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS)

Veterans' Reemployment Rights

Several steps were taken by the Veterans' Employment and Training Service (VETS) in anticipation of an increased workload for staff involved in the Veterans' Reemployment Rights (VRR) program due to Operation Desert Storm. Under the VRR law, servicemembers, Reservists and National Guard members have a right to return to the jobs they left to go on active military duty. They are entitled not only to their old jobs or an equivalent job, but also to be reinstated with the seniority, status, pay, and other benefits they would have earned had they remained on the job.

Due to the early start by VETS in making sure that Desert Storm participants as well as their employers were aware of their rights and obligations, the surge of returning military personnel did not produce a negative impact on VRR case processing. According to estimates by VETS field staff, over 30 percent of the almost 1,600 VRR cases opened during the first three quarters of Fiscal Year 1991 were from Desert Shield/Desert Storm participants. Yet, because those who filed VRR complaints were better informed and the staff involved in VRR work had received additional training, no significant problems arose to hamper case processing.

Now that most of the post-Desert Storm activities and parades are history, it is prudent to maintain VETS' state of readiness in VRR case processing. The current trend of about a 20 percent increase in case load over FY 1990 is expected to continue over the short term. In the long term, it is anticipated that case complexity will change. This forecast is based in part upon the planned reductions in active military forces already announced by the Department of Defense. In addition, changes in complexity will occur due to problems associated with proper job reinstatement and the year long period of special protection from discharge without cause that most Desert Storm participants enjoy.

In addition, the agency has also been active in coordinating with the Office of Personnel Management (OPM). Under a Memorandum of Understanding between the agencies, VETS staff refer unresolved veterans' complaints against Federal Departments and agencies to OPM for resolution. Such matters could involve failure to provide veterans preference in competitive service appointments, failure to give placement consideration for Veterans' Readjustment Appointment

eligible or 30 percent or more disabled veterans, or failure to list publicly announced job openings with local Job Service offices.

This interagency coordination resulted in over 230 complaints from veterans referred to appropriate OPM offices in the first three quarters of Fiscal Year 1991. While VETS has no legal obligation in resolving veterans' complaints against Federal agencies, it is considered very beneficial to veterans to offer another avenue of assistance to them in finding and maintaining employment.

EMPLOYMENT STANDARDS ADMINISTRATION (ESA)

Enforcement Initiatives

Fair Labor Standards Enforcement

During the period April 1 - September 30, 1991, the Wage and Hour Division conducted 29,875 compliance actions under the Fair Labor Standards Act (FLSA) and completed action on 24,378 complaints alleging violations of the Act's minimum wage and overtime provisions. More than \$74 million in unpaid back wages were found due to 189,030 workers, and nearly \$57 million in back wages were agreed to be paid for 172,078 workers.

Child Labor Enforcement

The Wage and Hour Division pursued a multi-pronged strategy in its child labor enforcement. A program of outreach, education and compliance assistance was conducted to promote broad awareness of child labor laws and requirements for compliance, and to apprise employers, youth, their parents and educators of new higher civil money penalties for violations. A vigorous directed enforcement was also undertaken. The Division carried out a series of strike force initiatives targeting industries and areas in each region where the most serious child labor violations are common. The planning and execution of this strategy of education and enforcement initiatives -- generally focused on large employers of youth, including summer employers in the amusement and recreation industries and in resort cities -- were supported by newly designated child labor coordinators in each Regional and District Office.

During the period April 1 - September 30, 1991, Wage and Hour conducted nearly 15,800 investigations in which child labor compliance was examined, finding 11,080 minors illegally employed. Over \$3 million was collected in civil money penalties for violations.

Government Contracts Labor Standards Enforcement

During the period April 1 - September 30, 1991, the Wage and Hour Division completed 1,767 government contracts compliance actions, including resolution of 1,392 complaints alleging violations, to enforce prevailing wage requirements under the Davis-Bacon and Related Acts, the McNamara-O'Hara Service Contract Act and other government contracts labor standards statutes. These actions resulted in findings of over \$21 million in back wages due to 25,311 workers, and recovery of over \$18 million in back wages for 24,308 workers.

On September 16, 1991, Wage and Hour adjusted the prevailing health and welfare fringe benefit levels required on Federal contracts subject to the McNamara-O'Hara Service Contract Act. As a result, close to a million service workers will receive an increase in benefits -- the first since 1986. The benefit requirement updating methodology utilized new data regarding prevailing fringe benefits payments collected and reported by the Bureau of Labor Statistics.

Farm Labor Enforcement

To supplement its ongoing farm labor program, Wage and Hour is conducting a coordinated enforcement effort in the central States' mid-continental migrant stream. During the April 1 - September 30, 1991 period, Wage and Hour completed more than 1,900 investigations under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), more than 700 migrant housing inspections, 303 investigations under the temporary nonimmigrant agricultural worker (or H-2A) program, and 676 Reportable Worker investigations.

The Construction Mega-Project Initiative

This initiative continues as a component of the overall OFCCP enforcement strategy. Each of OFCCP's ten regions has identified very large construction projects within their geographic area and is working with contractors from the ground up to encourage greater minority and female participation in each stage of the project.

Some of the innovations which represent a comprehensive approach to ensure the projects' success include:

- o preliminary meetings with the contracting agency prior to that agency selecting a contractor;
- o a pre-construction seminar to provide technical assistance to contractors and to involve unions, constituency groups and appropriate public agencies;
- o an "oversight committee" to monitor the affirmative action progress for the duration of the project; and
- o an equal employment opportunity manager to monitor compliance on a routine basis for the mega-project.

Regulatory Initiatives

Federal Employees' Compensation

Both a final rule and a proposed rule relating to the Federal Employees' Compensation Act were published in the Code of Federal Regulations on September 20, 1991. The final rule incorporated technical changes to the regulations resulting from recent amendments to the law.

The proposed rule, however, which extends schedule award benefit coverage to female organs, was of greater significance. It represents the first exercise of the Secretary's discretion to add to the award schedule since 1975 and provides coverage to women for the first time that has been available to men since 1975. Interested parties have 45 days to submit written comments regarding the proposed rule before it becomes final.

Fair Labor Standards Act

Two significant rule changes were published in the Federal Register on September 6, 1991, relating to exemption from minimum wage and overtime compensation requirements under the Fair Labor Standards Act for executive, administrative and professional employees in the public sector.

An interim final rule, effective September 6, 1991, provides that an otherwise exempt public sector employee paid according to a pay system that requires the use of paid leave and, absent the use of paid leave, reduces the employee's pay for absences of less than one work-day will not be disqualified from being considered to be paid "on a salary basis," as one requirement for being exempt, due solely to such circumstance. This rule also provides that the "salary basis" requirement for exemption will not be defeated by deductions from salary caused by budget-required furloughs, which are not regular and recurring, except in the workweek in which such a deduction occurs.

A companion proposal was also published which provides that eligibility for the exemption under the requirement that employees be paid "on a salary basis" will not be defeated in the case of governmental entities that have pay systems as described above and that either: (1) made no deductions from pay for absences of less than one work-day before September 6, 1991, or (2) reimburse otherwise-exempt public employees for deductions from pay made for absences, for personal reasons or because of illness or injury, of less than one work-day that occurred before September 6, 1991. Public comments on the interim final rule and the proposal are due on or before November 6, 1991.

The purpose of these two rules is to ensure that the Department's regulations allow appropriate application of the overtime exemption for public sector employers especially in light of the prospects that, without the rule changes, State and local governments may

face inappropriate overtime pay obligations to upper-level public managers involving potentially enormous, unforeseen liabilities.

Immigration Act of 1990

On November 29, 1990, the Immigration Act of 1990 was enacted, amending the Immigration and Nationality Act and creating a number of programs with new responsibilities for the Department, including in the area of temporary, employment-based immigration. The new immigration programs from which Wage and Hour derives new enforcement responsibilities involve: foreign students (under F-1 visas) employed off-campus, workers employed in specialty occupations (admitted under H-1B visas), and foreign crewmembers (D-visa holders) performing longshore work.

Employers wishing to employ nonimmigrants under any of these programs must file forms with the Employment and Training Administration (ETA) attesting to their compliance with the programs' requirements; Wage and Hour is responsible for ensuring employer compliance with their attestations. During the reporting period, Wage and Hour and ETA, published proposed rules for the H-1B program and an interim final regulation for the foreign crewmember/longshore program.

Management Initiatives

Patient Advocacy Demonstration Project

In its ongoing effort to improve service to injured employees and reduce compensation costs, the Office of Workers' Compensation Programs (OWCP) began a demonstration project in July 1991 to determine if early intervention techniques could effectively return more workers with low back injuries to productive employment. Most studies indicate that 80 to 90 percent of these workers experience an improvement in their condition within the first 2 months following injury. OWCP seeks to identify cases with recovery potential where the claimant has not returned to work within that 2 month period. Registered nurses, acting as patient advocates, are intervening in these cases and providing support and encouragement for the claimant, recovery-related problem solving assistance, and diagnostic and treatment procedures monitoring. These treatment-oriented and supportive interventions should contribute to a positive injury outcome.

The project is being conducted in three Federal Employees' Compensation district offices. Actual contact with claimants and physicians will occur over a 7 month period; data collection will continue for an additional 6 months. The program expects to issue a report detailing the results by the end of 1992.

North American Free Trade Agreement

ESA is currently involved in implementing segments of the Memorandum of Understanding between the United States Department of

Labor and the Secretariat of Labor and Social Welfare of the United Mexican States as part of the Administrations's efforts regarding the North American Free Trade Agreement. The Office of Policy Management and Analysis is working with officials in Mexico on a joint study of the child labor problem in both countries.

The joint child labor study is designed to review and compare the labor force characteristics of both countries; the nature and extent of the participation of children in the labor forces in both countries; the laws and regulations governing the employment of young people; and the problems and progress that both countries have experienced in this area.

Implementation of Quality Management

Wage and Hour's total quality management implementation has continued to develop; there are now over 100 work teams in operation throughout the regions and the National Office. Based on the success of their total quality management implementation, the San Francisco Region has been selected as a finalist by the Federal Quality Institute for their prestigious Quality Improvement Prototype award. In addition, revisions to field investigator performance standards have been developed and proposed to bring them in line with managers' standards implemented last year that reflect the move to "doing work" using total quality management principles and practices.

ESA's Office of Policy Management and Analysis (OPMA) has utilized total quality management (TQM) concepts in three projects to improve the delivery of its services. These projects have dealt with an OPMA tracking system, the process for developing and impacting Congressional testimony and related materials, and information systems operations and improvement. OPMA will continue to explore ways to utilize TQM concepts in its operations.

Automated System Improvements

The Office of Workers' Compensation Programs continues to enhance its automated data processing capability. A new Debt Management System, a stand-alone automated accounts receivable software package, was installed in the Federal Employees' Compensation Program district offices during August 1991. This system, developed internally to replace the previous contractor-owned system, should save the Federal Employees' Compensation Program \$200,000 annually in timesharing costs.

The Debt Management System allows the personal computers which most staff members have to supplement the capabilities of the Sequent district office mini-computer for the first time. While it is resident in the personal computer, it provides an interface capability with the Sequent Case Management System that should significantly reduce database inconsistencies.

Installation of the Physician's Directory Service (PDS) was completed in July 1991. The PDS, residing entirely in the medical assistant's personal computer, provides an automated physician location and referral service for second opinion and impartial medical examinations in Federal Employees' Compensation (FEC) cases. Its database contains the names and select specialties of physicians throughout the United States, geographically divided to correspond with each FEC district office jurisdiction.

In early July, the Black Lung program began installing Personal Librarian software in its district offices. The process was completed on August 28 and training concluded in the National Office on September 26. Personal Librarian transforms the program directive system by storing Black Lung program directives in a data base and making them instantly accessible on a personal computer.

Program staff are investigating the feasibility of using the Personal Librarian or its equivalent in the Sequent environment. OWCP would like to make this innovation available to all three compensation programs in the future.

The Longshore program continues converting its non-located offices to the new ESA Sequent ADP System. Each office will tie into the Sequent mini-computer located in the regional OWCP office. Four offices were converted during the present reporting period: Baltimore and Norfolk in June 1991, and New Orleans and Houston in July 1991. The two remaining offices should be converted during the first quarter of FY 1992.

Voluntary Compliance Efforts

EVE/Opportunity 2000 Awards Program

OFCCP honored nine Federal contractors and one corporate liaison group with the FY 1991 Exemplary Voluntary Efforts (EVE) Award. These awards were presented at a ceremony held September 19, 1991, at the Department of Labor. Additionally, one Federal contractor was awarded the Secretary's Opportunity 2000 Award.

The EVE and Opportunity 2000 Awards recognize Federal contractors and contractor associations which have voluntarily undertaken innovative efforts to increase employment opportunities for minorities, women, individuals with disabilities and veterans. The awards are presented for highly successful affirmative action programs which might include, but not be limited to:

- o management development programs designed to address and eliminate barriers to upward mobility into corporate management;
- o innovative outreach and recruitment programs designed to attract minorities, women, individuals with disabilities and Vietnam era and disabled veterans;

- o labor management relations programs fostering the establishment of joint labor-management EEO committees for the purpose of involving both labor and management in the planning and practice of affirmative action and equal employment opportunity in the workplace;
- o employee development programs which provide training and developmental assignments for employees; and
- o employee support programs which provide services and strategies for dealing with work and family issues, and a drug free workplace.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

Respirable Dust Sampling Program

In April 1991, the Secretary of Labor announced that more than 4700 citations had been issued to over 800 coal mines for alleged tampering with dust samples and that penalties for these violations would total over \$6.5 million, the largest aggregate fine in the history of the Mine Safety and Health Administration. MSHA is continuing to conduct civil and criminal investigations of allegations of fraud and improper conduct relating to dust sampling. The investigations and findings which led to the citations for dust tampering have caused the Agency to initiate several actions to review the entire respirable dust program.

A task group has been appointed with members from MSHA, NIOSH, ASP, OSHA and the Bureau of Mines, to study ways to improve the respirable dust program. The task group will address numerous facets of the program such as: the manner in which industry dust control plans are approved and monitored; technology issues; training of industry employees in sampling techniques; Agency auditing of the dust program, etc.

Further, MSHA initiated a spot inspection program. Six hundred mines were selected, approximately one-third of the Nation's underground mines, utilizing criteria such as accident records, past problems, utilization of longwall mining equipment, citations given for abnormal white center dust samples, etc. Inspectors spend one day at the identified mine, sampling dust levels and interviewing select individuals about the mine's ventilation plans and other related issues. Citations are issued for all violations identified. Additionally, the mine's approved plans and other documentation are reviewed by the inspector. These data are being provided to the task group mentioned above for the creation of a data base for future analysis.

MSHA has also initiated a monitoring program of the operator required dust sampling program. The operator is required to notify MSHA when dust sampling is to occur. An MSHA inspector goes to the mine to observe the operator's sampling activities, and issue citations for all violations identified.

MSHA currently is testing a prototype dust cassette to evaluate its resistance to intentional alteration while retaining its ability to obtain an appropriate dust sample.

MSHA has purchased new dust pumps with a timing device which shows the length of the sampling period. The effectiveness of this new pump will be assessed through Agency inspector use and decisions subsequently made regarding industry mandatory use.

Because of the serious problems which have been discovered regarding industry compliance with the dust standards, the Agency has and will continue to look at the entire respirable dust program. Civil and criminal proceedings will continue, and at the same time, all Agency and industry issues relating to the dust program will be assessed.

Belt Air Advisory Committee

In June 1991, the Secretary of Labor approved the establishment of an advisory committee to make recommendations regarding conditions under which air coursed through conveyor belt entries could be safely used in the face areas of underground coal mines. This committee will be composed of nine individuals who have no economic interest in the mining industry and who are not operators, miners, or officers or employees of the Federal government or any State or local government.

The Agency published a proposed ventilation rule in January 1988 to revise existing ventilation standards for underground coal mines. This proposal included provisions to allow the use of belt entry air to ventilate the face areas of underground coal mines. Public hearings were held and the record closed in September 1988. After an MSHA special study to review safety and health issues surrounding the ventilation of belt conveyor entries, the Agency reopened the rulemaking record to receive public comment on the relevant portions of the report and held another public hearing in April 1990. Because of the divergent commenter views on the safety and health issues of using belt entry air, the Assistant Secretary recommended to the Secretary of Labor that an advisory committee review the Agency's proposal, including related provisions addressing intake escapeways and air velocity, other technical data and the draft provisions developed by MSHA during this entire ventilation rulemaking process, to make recommendations with respect to conditions under which belt entry air could be safely used at the face areas of underground coal mines. MSHA anticipates that the committee will first meet in November 1991.

Small Mine Training Initiative

MSHA has implemented a pilot program to focus Agency education and training resources toward improvement of safety and health in small coal mines. This program has grown out of discussion and activities relating to several other recent Agency training assistance initiatives including the National Mining Committee for Job Safety Analysis and the Joint Mine Assistance Program.

The 3-year pilot small mine initiative will dedicate eight specialists to provide concentrated training assistance to selected small mines which volunteer to be part of the program. These specialists will be physically located in the coal districts responsible for inspection jurisdiction for the States of West Virginia, Pennsylvania, Kentucky and Virginia. These States account for 70 percent of the Nation's coal mine fatalities. In this voluntary program, the training specialists will utilize job safety analysis, barrier analysis, repeat violation reduction program techniques and other accident reduction tools to improve safety and health in these small mines.

Specialized evaluation criteria will be designed so that at the end of the 3-year period, decisions can be made concerning the program's design and continuation.

Regulatory Activity

In September, the Agency extended the effective date of a January 1991 final rule revising explosives standards for metal/nonmetal mines until November 1, 1991. The Agency also gave notice of a 1-year administrative stay of certain provisions of the final rule until October 1, 1992. MSHA will repropose the stayed provisions for further comment.

Also in September, the Agency published a proposed rule amending the training requirements for miners in Part 48. The proposal would require training for all supervisors and establish more appropriate training requirements for newly-employed experienced miners.

Fire Fighting Facility

Construction began in September 1991 to build a fire fighting and mine rescue training facility at the National Mine Health and Safety Academy in Beckley, West Virginia. Its design was created by a committee of Agency technical specialists to meet the training needs of individuals who could be faced with a rescue or fire situation in any mine environment.

MSHA will utilize this facility to simulate ventilation problems which occur in mine fires and to provide hands-on training in mine emergency and fire fighting situations for Agency inspectors and

other personnel and the mining community. Presently, the MSHA Academy has limited capability to simulate real mine fire and ventilation problems as part of the training process. Completion of the new training facility is anticipated in May 1992.

Revised Accountability Program

MSHA's accountability program was established in October 1987 to improve consistency in the implementation of policies and procedures among the 16 coal and metal/nonmetal districts. This was a three-tiered program requiring supervisory, district and headquarters reviews.

The Internal Review Report of MSHA's actions at the William Station Mine, after a disaster there in September 1989, showed the need to revise the accountability program to enable management to better detect deficiencies in the quality of enforcement program activities. A task force was created to revise the accountability program to focus reviews on quality. The revised program was implemented in April 1991 and now includes a major shift from process and system review to assessing the quality of enforcement activities.

Documentation of inspection results is a significant quality issue which has been raised through the accountability program. Accountability reviews now focus a closer look at this documentation requirement and have surfaced a need to make this important requirement more efficient. MSHA's union-management pair, under the Secretary of Labor's Employee Involvement and Quality Improvement Program (EIQI), have identified inspection documentation efficiency as a primary issue to jointly resolve. MSHA expects the involvement of union and management in solving this important issue will have widespread positive impact on mission accomplishment and employee job satisfaction.

A six-month review of the effectiveness of the accountability program revisions has begun and adjustments will be made as appropriate to ensure the revised objectives of the accountability program are being met.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Bloodborne Disease Standard

OSHA is on target to promulgate a final standard concerning occupational exposure to bloodborne pathogens. A proposed rule was published in the Federal Register on May 30, 1989. Over 2,900 public comments have been received in response to that proposal. A draft preamble was completed in September 1991, and the total package is being prepared for external review in early October. The Office of Training and Education has developed 35 slides to be used by Regional Administrators for outreach and training. This is the first major action that specifically protects American workers against biological hazards. Protection against such bloodborne diseases as AIDS and hepatitis B will be extended to an estimated five million workers in health care occupations, emergency response occupations, correctional facilities, research laboratories, and the funeral industry. The rule will be implemented in the Nation's 100,000 dental offices through development of a brochure and an instructional video tape. Also covered will be approximately 600,000 people employed in law enforcement.

Review of State Programs

OSHA has begun a re-examination of federally approved State job safety and health programs in the wake of a catastrophic fire at Imperial Foods Products in Hamlet, North Carolina. OSHA's commitment to conduct this re-evaluation of State plans was made to the House Education and Labor Committee at a September 12 hearing. An evaluation of North Carolina's State program is expected to be completed within 90 days, and the other 22 full state plans in 120 days. The September 3 fire, which killed 25 people, was caused by fumes from a ruptured hydraulic line that became ignited by gas burners. Many workers were trapped, allegedly because the company had locked the doors in violation of OSHA rules. Assistant Secretary Gerard F. Scannell visited the site and met with North Carolina Labor Commissioner John C. Brooks to discuss the safety of workers in North Carolina.

In response to the state's request for aid, OSHA established joint federal/state enforcement of safety and health regulations in North Carolina as of October 24, 1991. Federal compliance officers began responding directly to workplace complaints and allegations of discrimination against workers who have lodged complaints. The federal assistance will enable the North Carolina staff to address pending complaints, the Hamlet investigation and other recent fatality investigations, and to resume targeted high-hazard safety and health inspections. OSHA will monitor all state fatality and catastrophe investigations. The level of federal enforcement may be modified as future circumstances dictate.

International Programs

OSHA is placing increasing emphasis on universal worker protection standards and the role of safety and health in the international community. Through such cooperative efforts as joint seminars and Memoranda of Understanding, OSHA is comparing its practices with those of international counterpart agencies and has influenced the development of rules and regulations that affect worker safety and health abroad. One impetus for this effort is the international consensus about the need for chemical accident prevention and response to prevent catastrophic global consequences. In the past year, OSHA's primary efforts have been focused on Eastern Europe, the Soviet Union, and Mexico. Activities have included: attendance at conferences to discuss the prevention of worker exposure to chemicals, chemical disasters and pollution; exchanges of information to create a safer and more healthful workplace; site visits for Eastern Europeans to observe safety and health practices; a joint seminar in the Soviet Union to exchange philosophies on how to effectively deal with chemical safety in the workplace, and discussions with Soviet officials on potential areas for future scientific exchanges and cooperative efforts; and a Memorandum of Understanding signed in May 1991 between the U.S. Department of Labor and Mexico's Department of Labor and Social Welfare, leading to meetings with Mexican officials to exchange information. OSHA will continue to facilitate the exchange of information and cooperation on worker safety and health issues around the world.

Process Safety Management of Highly Hazardous Chemicals

OSHA reached two multimillion dollar settlements with petrochemical companies in August 1991. Phillips 66 Company agreed to implement corporate-wide process safety management procedures and pay \$4,000,000 to settle citations issued by OSHA as the result of the October 1989 explosion at the company's Houston Chemical Complex in Pasadena, Texas. Twenty-three workers were killed in the explosion and an additional 130 were injured. Separate citations against Phillips' contractor, Fish Engineering and Construction, are pending before the Occupational Safety and Health Review Commission. CITGO Petroleum Company agreed to pay a record \$5,800,000 in a settlement following a March 3 explosion at a Lake Charles, Louisiana refinery that killed six workers and injured six. The initial penalties were the first calculated under the sevenfold increase in maximum civil penalties authorized by Congress under the Omnibus Budget Reconciliation Act of 1990. Both agreements require the companies to extend the safety measures to all their facilities. The agreements also contain training requirements for on-site contractors as well as employees. An unprecedented feature of the CITGO agreement is the requirement to contribute \$200,000 to the initiation of a nationwide petrochemical training program.

In late July, the agency released a report prepared by the John Gray Institute of Lamar University surveying safety and health

issues related to contract work in the petrochemical industry. OSHA has reopened the process safety rulemaking record to permit public evaluation and comment on this study. This will delay publication of the final process safety standard until early 1992.

Toll-free Phone Number

OSHA is preparing to institute a national toll-free number which will facilitate the reporting of emergency situations to the agency. The 800 number is expected to be operational in October 1991. The availability of the number will be publicized through both the print and electronic media. Emphasis will be placed on the agency's fire safety requirements. In addition, a flyer will be prepared for compliance officers and others to distribute during inspections and speaking appearances. Assistant Secretary Scannell made the announcement as part of his keynote address at the National Safety Congress. During the next few months the agency will further publicize the availability of the number for emergency use through additional news releases, public speeches, and public service announcements.

OSHA/EPA Pact on Wastewater Treatment Plant Construction

OSHA has signed an agreement with the Environmental Protection Agency (EPA) to promote safety during the construction of EPA-assisted municipal wastewater treatment projects nationwide. The two agencies will coordinate inspection efforts, exchange information and provide for safety training programs. Projects under this agreement may include construction of sewer pipelines, tunnels, pumping stations, processing buildings and other structures. OSHA has developed special training packages to assist EPA and state and local water pollution control agencies in identifying occupational hazards. The agency has conducted training sessions for EPA, the U.S. Army Corps of Engineers and state agency instructors who in turn train project inspectors. OSHA is also providing materials to EPA to assist in conducting pre-job safety reviews with grantees and contractors bidding on construction projects. Other specific responsibilities under the agreement include: handling promptly referrals of alleged OSHA violations at construction sites; including active sites on the agency's construction inspection list; providing EPA with copies of citations and evidence of unresolved problems; and providing technical assistance to EPA in pursuing debarments of contractors who violate safety and health standards.

OFFICE OF THE SOLICITOR

The Office of the Solicitor provides legal services to all programs of the Department. The following activities represent the highlights of the reporting period.

OSHA Cases

On October 23, 1989, an explosion at Phillips Petroleum in Houston, Texas killed 23 and injured 135 employees. The citation alleged 566 willful violations for exposing employees to the hazards of fire and explosion. The case was settled on August 22, 1991, with Phillips agreeing to pay \$4,000,000 in penalties and to corporate-wide abatement.

On March 3, 1991, a pressure vessel exploded in Citgo's Lake Charles, Louisiana refinery. Six employees were killed and 32 received minor injuries. OSHA issued willful and serious citations in excess of \$7,000,000. The case was settled in August 1991, with Citgo agreeing to corporate-wide abatement and the payment of penalties totaling \$5,800,000. In addition, CITGO agreed to pay \$200,000 to NIOSH to fund a training program for refinery operators.

In Secretary v. Gene T. Jones Tire & Battery Distributors, Inc., the defendant is a scrap dealer and wholesale distributor of lead, that breaks and recycles automobile and industrial batteries for their plastic and lead content. On the basis of an OSHA investigation file, NIOSH report and supporting affidavits showing that 14 of the defendant's 15 employees had elevated blood lead levels and that 14 of the 15 employees had elevated zinc protoporphyrin levels consistent with chronic lead poisoning, a Notice of Alleged Imminent Danger to Employees was posted on July 18, 1991, naming 13 employees, excluding the president and principal stockholder, who should be removed from the workplace. We subsequently obtained a Temporary Restraining Order requiring immediate removal of the 13 employees as well as medical removal protection benefits to those workers. A preliminary injunction was later obtained by consent of the parties.

On September 3, 1991, ASARCO, Inc. agreed to pay \$500,000 and to implement feasible engineering and work practice controls to reduce employee exposures to lead and arsenic at its East Helena, Mont. primary lead smelter. The agreement settled citations issued in April 1988 for more than 200 instances of alleged willful violations of OSHA's lead and arsenic health standards, as well as numerous other instances of failures to abate previously cited hazards.

In April 1991, an agreement with Chevron U.S.A. Inc. became effective, requiring the oil company to provide and require at all

its refineries nationwide flame resistant clothing to all workers in areas where they could come in contact with a flash fire, and to further provide and require at all its refineries turnout gear (firefighting clothing) for all workers who could be requested or required to work in areas where they could be exposed to the risk of burn injuries. The company also agreed to pay \$275,000 in fines in the court action which followed an OSHA investigation of a fire which occurred in 1989.

On August 5, 1991, settlement of an egregious ergonomics case against Cargill, Inc. was reached. Under the terms of this agreement, Cargill agreed to provide a full ergonomic abatement program, as well as a training and medical management program for Cargill's five poultry plants. The employer also agreed to pay a penalty of \$400,000 and to correct its OSHA recordkeeping system.

Fair Labor Standards Act

On September 12, 1991, a bench warrant issued by a Federal Judge in Arkansas was executed on Tony Alamo resulting in his confinement for failing to pay approximately \$340,000 in FLSA back wage judgments. Mr. Alamo, a nationally known "cult" leader, has been the principal defendant in lengthy litigation with the Department involving the FLSA and freedom of religion issues.

In August 1991, a preliminary injunction and additional relief was obtained against a large garment manufacturer on the island of Saipan who employs about 1500 imported Chinese laborers to manufacture clothing for the U.S. market. The Court order requires that Willie Tan and his companies immediately come into compliance with the overtime, recordkeeping and anti-discrimination provisions of the FLSA. Additionally it requires that the defendants post a \$400,000 bond to ensure that goods at substandard wages are not exported.

The Opryland Hotel, Nashville, Tennessee, entered into a settlement agreement to pay \$748,125 in back wages due to 2,933 present and former hotel employees, who were required to change from their street clothes to hotel uniforms at the beginning and end of their work shifts, and were not paid for such time.

The District Court entered Judgment against Gainesville P-H Properties, Inc., et al., enjoining them from continued violations and ordering them to pay \$301,801.65 in back wages, plus \$174,782.64 in pre-Judgment interest to 223 hotel employees. Defendants own and operate numerous motels in Florida, Tennessee and New York.

Child Labor

Suits were filed and settlements reached in March Glassman, Inc., a grocery and discount drug chain in Ohio, and Farmer Jacks, a grocery chain in Michigan. These companies agreed to pay more than \$262,000 in child labor civil money penalties affecting more than 900 minors.

ERISA

On June 5, 1991, the Department of Labor and other litigants entered into a partial settlement agreement in Martin v. Tower Asset Management and other related cases. The Department had alleged that an unqualified investment manager, negligently retained and monitored by the fiduciaries of two union pension plans, had illegally invested plan assets for its own benefit, which resulted in large losses. If approved by the Court, the agreement would recover at least \$25 million (minus attorneys fees and expenses for private plaintiffs' counsel) for one of the plans, require two trustees to resign and appoint an independent fiduciary to manage most of the remaining assets. The Court has already enjoined the investment manager from providing further services to employee benefit plans.

On June 13, 1991, the Department filed suit against the trustees of the Consolidated Welfare Fund ("the Fund"), Consolidated Local Union 867, and four insurance agencies owned by the management trustees. In addition to numerous claims of self-dealing, the complaint includes allegations that the trustees illegally used plan assets to market the Fund through insurance agents and imprudently caused the insurance carrier to cancel coverage. The trustees then failed to obtain an actuarial study to determine the viability of self-funding or the rates necessary to pay future claims. After the complaint was filed the court entered a partial consent order requiring that an independent fiduciary be appointed for assessing the Fund's solvency and future viability. On August 29, 1991, the Secretary requested the Court to order that the Fund be terminated based on the dire financial condition of the Fund and the poor prospects for its rehabilitation.

In June and July 1991, the Department brought three actions against the fiduciaries of pension plans claiming that they violated the prudence and exclusive purpose requirements of ERISA in selecting group annuity contracts to fund pension benefits for the plans's participants and beneficiaries. The complaints allege that the fiduciaries failed to adequately evaluate the creditworthiness and stability of the insurance carrier from which the contracts were purchased. All three cases involve Executive Life Insurance Co., which became insolvent earlier in 1991 and was placed in receivership by the State of California.

Mine Safety and Health Act

In January 1991, the Peabody Coal Co. pled guilty to a criminal information and was sentenced to a \$500,000 fine for three counts

of dust sampling fraud. This action culminated a 23-month criminal investigation and other criminal investigations were still underway. On April 4, 1991, MSHA issued 4,700 civil citations to 847 mines (504 controlling companies) charging them with submission of dust samples which had been altered by a back-flushing technique creating a tell-tale Abnormal White Center where the dust had been removed from the sample (195 additional citations which were delayed until May at the request of the U.S. Attorney's Office have also been issued). On June 14, civil penalties totaling \$6.5 million were proposed for the April violations. Nearly all of the civil penalties have been contested and are pending before the independent Federal Mine Safety and Health Review Commission.

Longshore and Harbor Workers' Compensation Act

In a decision likely to affect thousands of hearing loss cases, the First Circuit, in Bath Iron Works Corp. v. Director, OWCP, adopted the Director's argument that compensation for a retired employee's work-related hearing loss (which does not progress once the employee is removed from exposure to injurious noise) should not be calculated under the LHWCA's retiree provisions because these provisions apply to compensation for long-latency occupational diseases, which most often do not manifest themselves until many years after the employee's retirement. The court rejected contrary authority of the Fifth Circuit directly on point as "not very convincing."

Program Fraud Civil Remedies Act

In the first decision under this Act, and Administrative Law Judge entered a decision finding violations of the Program Fraud Civil Remedies Act, and assessing civil money penalties in the total amount of \$105,000 against Aconi Constructors, Inc., its owner and president, its treasurer and a project superintendent. The defendants had submitted 21 false certified payrolls on a Davis-Bacon project for the U.S. Postal Service.

PENSION AND WELFARE BENEFITS ADMINISTRATION (PWBA)

Pension Coverage and Portability

One of the Department's major goals is to give America's workers greater retirement security by expanding pension coverage and increasing pension portability. On April 30, 1991, Secretary Martin announced the Administration's "POWER" proposal. "POWER" is an acronym for Pension Opportunities for Workers' Expanded Retirement. The POWER proposal is designed to improve pension coverage and portability of benefits, and to simplify complex pension laws and regulations.

An estimated 26 million workers in small private firms have no pension plan. In addition, many American workers may hold a number

of different jobs over their working careers without being able to carry their pension earnings with them when they change jobs. This package of legislative proposals is intended to bring more employees into the pension system and to encourage them to preserve more of their savings until retirement.

The POWER proposal consists of five points:

- Expand pension coverage with a new, simplified pension plan aimed at small businesses;
- Provide additional coverage by allowing state and local governments and tax-exempt organizations to establish 401(k) retirement plans;
- Simplify the rules for pension plans to encourage more employers to establish and maintain pension plans;
- Make vesting schedules uniform for all pension plans; and
- Encourage workers who change jobs to transfer or roll over funds into an individual retirement account or another employer's plan that accepts such amounts, and remove existing incentives to "cash out" retirement money.

Improving the Quality of ERISA Audits Performed by Independent Public Accountants

Improving the quality of audit work performed in the ERISA area is a high priority for PWBA. In FY 1991, the Office of the Chief Accountant (OCA) has made significant progress in several key areas:

- (1) OCA worked extensively with the American Institute of Certified Public Accountants (AICPA) in the revision of the AICPA's guide for the audit of employee benefit plans which was issued in March 1991;
- (2) OCA participated with the AICPA in planning and presenting an Annual Employee Benefit Plans Update Conference; producing audit risk alerts and checklists for accounting practitioners and continuing professional education materials for accountants and other professionals who perform services for employee benefit plans; and has urged the AICPA to develop other opportunities for professional training in the ERISA area (a new self-study course will be available in mid-November 1991. In May 1992, the AICPA will present a lecture series in a number of major cities to provide training on the revised industry guide);
- (3) OCA conducted in-house reviews of 1200 accountant's reports submitted with ERISA annual reports for compliance with professional standards;

(4) OCA initiated a program of on-site reviews of IPA audit work papers, and in FY 1991, conducted 26 such reviews based on the above mentioned in-house review of accountant's opinions and referrals from PWBA field offices of substandard work identified during investigations of employee benefit plans;

(5) OCA made extensive use of new enforcement authority under ERISA section 502(c)(2) against plan administrators who failed to obtain correction of deficient audit work. In FY 1991, OCA issued 692 letters rejecting ERISA report filings and assessed penalties of \$5.9 million against plan administrators who did not have a reasonable cause for failing to obtain adequate audits. In many instances, the plan administrators are seeking repayment from the plan auditor; and

(6) OCA made a total of 105 referrals to the AICPA's Professional Ethics Division and 10 referrals to State boards of accountancy. Of the 37 cases closed to date, the AICPA has recommended Trial Board action for 11 cases and required corrective actions and continuing professional education in 17 cases. In some instances, AICPA members have been required to submit additional work products for review after their training requirements have been fulfilled. The AICPA has reported that in the period from May 1986 through August 1991, PWBA has referred twice as many cases as any other government agency, and that the AICPA may expand its Professional Ethics Committee to have a subordinate unit dealing specifically with ERISA referrals.

After last year's review by the former Secretary of Labor Elizabeth Dole of all Departmental enforcement strategies, the Department concluded that ERISA enforcement should be enhanced in several respects, and that statutory changes were required to implement these enforcement initiatives, including repeal of the limited scope audit provisions of the statute and the implementation of peer review requirements. As a result, ERISA enforcement legislation was introduced in November 1990, but no action was taken since it was at the end of the 101st Congress. During FY 1991, agreement was reached with the OIG regarding the resolution of the outstanding recommendations from their audit work on IPA-related issues and joint PWBA-OIG recommendations were approved by the Department's Policy Review Board for revisions to the ERISA enforcement proposal. The overall ERISA legislative package, which includes other issues in addition to those dealing with auditing, was considered by the Policy Review Board as part of the Department's legislative program for FY 1992.

The Department expects that the refined legislative proposal dealing with ERISA accounting issues will be introduced into the 102nd Congress in early 1992.

Investigations of Plans Which Terminated and Purchased Annuities From Other Than Top-Rated Insurance Carriers

In the second half of 1991, PWBA continued its on-going investigations of plans which terminated and purchased annuities from less than top-rated insurance carriers. This project, which began in February 1990, stems from a coordination arrangement between PWBA and the Pension Benefit Guaranty Corporation (PBGC), by which the PBGC agreed to refer to PWBA information on terminated plans that are providing benefits through annuities purchased from other than top-rated insurance companies.

From these referrals, 45 on-site investigations have been, or are being conducted. PWBA has taken enforcement action in seven of these cases, filing litigation against the fiduciaries of one plan (AFG Industries), and sending out demand letters to the fiduciaries of six plans.

Additionally, PWBA has completed, or is currently in the process of conducting, investigations involving 36 plans which terminated and purchased annuities from the Executive Life Insurance Company. These investigations have resulted in the filing of two lawsuits against the fiduciaries of MagneTek Inc., and Maxxam Inc./Pacific Lumber. PWBA anticipates additional enforcement action against the fiduciaries of a number of these plans.

PWBA is also conducting investigative inquiries into approximately 850 plans which terminated and purchased annuities from Executive Life Insurance Company since 1985. PWBA will determine whether further investigation or action by the Department is warranted.

Expedited Exemption Process for Requests Involving Guaranteed Investment Contracts Issued by the Executive Life Insurance Company

On May 30, 1991, PWBA announced that it will expedite its consideration of exemption requests involving sales by employee benefit plans of guaranteed investment contracts (GICs) issued by the Executive Life Insurance Company. First Executive Corporation, whose two main insurance subsidiaries were seized by State regulators in California and New York, has filed for Chapter 11 reorganization in U.S. Bankruptcy Court. Executive Life has ceased making payments on its GICs.

GICs are a common type of investment for employee benefit plans under ERISA. In this regard, a number of employers sponsoring such plans have expressed a willingness to purchase Executive Life GICs from their plans to prevent losses or delays in benefit payments. An employer's purchase of a GIC from its own plan requires the approval of PWBA since ERISA prohibits sales transactions between plans and certain related persons, including sponsoring employers.

In order to facilitate transactions involving the sale of Executive Life GICs by plans, PWBA has expedited its consideration of

individual exemption applications requesting such relief, and has received and processed a number of such applications.

Selection of Annuity Providers

PWBA published an advance notice of proposed rulemaking soliciting comments on issues regarding whether to publish a proposed regulation establishing minimum standards for determining whether an annuity contract purchased from an insurance company serves to relieve a plan of future liability with respect to the participant or beneficiary on whose behalf the annuity is purchased. Under current regulations, a participant or beneficiary ceases to be a participant covered under an employee pension plan or a beneficiary receiving benefits under such plan if the entire benefit rights of the individual are fully guaranteed by an insurance company "licensed to do business in a state." While it is clear that ERISA's fiduciary standards govern a plan fiduciary's selection of annuity providers, the Department is considering whether and to what extent minimum standards for annuity providers may be necessary to help ensure that participants or beneficiaries on whose behalf annuities are purchased will receive their promised pension benefits.

PWBA Criminal Enforcement Program

FY 1991 has been an outstanding year for PWBA's criminal enforcement program. Although final statistics are not yet available, preliminary estimates indicate that for FY 1991, at least 31 indictments have been obtained as a result of 24 separate criminal investigations conducted by PWBA. This is more than double the number of indictments for any year in the past 5 years.

Greater activity in criminal enforcement is due to the increased emphasis PWBA has placed in this area of investigations including the hiring of an additional 91 investigators and conducting a specialized PWBA-developed criminal training course which provides focused technical training relating to criminal investigations involving employee benefit plans.

Pursuant to recommendations contained in the Secretary's department-wide review of enforcement programs, PWBA has established a position of Criminal Coordinator within the Office of Enforcement to oversee the implementation of PWBA's criminal enforcement program. The position was filled in September 1991.

On August 20, 1991, the Department issued its first semi-annual report on criminal enforcement activities under ERISA. This report provides statistics on PWBA's criminal enforcement program, as well as a brief description of criminal case activity during the first 6 months of the calendar year.

Strengthening Federal and State Regulation of Health Care Providers

As of September 30, 1991, PWBA had approximately 70 open MEWA-related investigations of which sixteen are criminal investigations. Last year at this time, PWBA had 57 open MEWA investigations (seven were criminal cases) being handled by PWBA staff or conducted jointly with other agencies.

During this 6-month reporting period, guilty pleas were entered by defendants in three MEWA criminal investigations in which PWBA participated.

DOL commenced a civil action on June 13, 1991, in the United States District Court For the Southern District of New York [Martin v. Goldstein, et al.] relating to the Consolidated Local 867 Welfare Fund. The Department obtained a Partial Consent Order which appointed an independent fiduciary for the limited purpose of determining the financial status of the Fund and what further action would be appropriate. Subsequently, the Department submitted a motion which is being considered by the Court to have the Fund ordered terminated based upon its hopeless financial condition and outstanding debt obligations that may total up to \$10 million.

In the past six months, cooperative activities have continued between PWBA and various state insurance regulators. These activities included the issuance of joint bulletins to all licensed insurance agents in the states of Florida and Texas alerting them to the practice of selling unauthorized insurance products, such as unlicensed MEWAs, in the State.

PWBA prepared and distributed to State insurance officials, as well as other interested persons, a technical assistance booklet on MEWAs outlining the Department's and the States' authority in this area. This booklet was developed to address many of the questions that have been raised concerning the scope and effect of ERISA on Federal and State regulation of MEWAs. By increasing the understanding of State regulators regarding MEWAs, the Department has attempted to enhance Federal-State coordination efforts, and in turn, ensure that employees of employers participating in MEWAs are afforded the benefit of the safeguards intended under both ERISA and State insurance laws.

PWBA also continues to provide expeditious reviews of MEWA-related advisory opinion requests from State insurance commissioners and in this reporting period has issued seven advisory opinions concerning MEWAs and provisions of Sections 3(40) and 514 of Title I of ERISA.

BUREAU OF LABOR STATISTICS (BLS)

CPI Release Time To Decrease 1.4 Days In FY 1992

The Consumer Price Index (CPI) continues a 4-year trend of earlier release dates. The CPI release time will decrease an average of 1.4 days in Fiscal Year 1992. The release date in Fiscal Year 1991 was, on average, 15.3 days from the end of the month in which the data were collected. It is estimated that for Fiscal Year 1992, the average will be 13.9 days. This improvement is primarily due to a decrease in the time necessary to edit data. Computers have been programmed to do more of the editing that previously was done manually.

BLS 24-Hour Inquiry Line

In the Spring of 1991, the BLS Washington, D.C. information office introduced a 24-hour current data telephone hotline. Callers may access timely recorded messages from the Bureau's latest news releases on the Consumer Price Index, the Producer Price Index, the Employment Situation, and the Employment Cost Index. Updated messages are available immediately at 8:30 a.m. on release days and on a continuing 24-hour basis.

BLS is now working to widely disseminate new instructions on how to access information from the hotline more quickly. Using these instructions, callers may bypass time-consuming, step-by-step instructions by entering a code for the desired information on their telephone keypads. A listing of the codes can be found in the latest "BLS Update" (1991-3) and may be obtained from the BLS Washington, D.C. information office.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT (OASAM)

Management and Productivity Improvements

The Department continues to make progress institutionalizing the compilation of financial statements under generally accepted accounting principles and subjecting those statements to rigorous audit by the Office of the Inspector General. Although this is the fifth year of compiling and auditing such statements, it is the first year in which agency management has had an exclusive role in compiling those statements. The Department continues to improve its accountability to the public and to the Congress by taking a comprehensive approach to managing its financial resources.

The core of the new accounting system (DOLAR\$) continues to provide accurate and timely functionality. After extensive testing in Atlanta and MSHA's Lakewood facility, the DOLAR\$ Accounts Payable Subsystem is fully operational. In-depth training was provided to

a cross section of financial and accounting staffs in the agencies and regions prior to going up nationwide.

During the third quarter, the electronic transmission of all standard DOLAR\$ reports to finance offices was achieved. The use of the DOLAR\$ system to close out FY 1990 and to prepare and timely transmit to Treasury required reports reflects significant progress in the DOLAR\$ implementation.

The Comptroller's office conducted a User Satisfaction Survey to determine customer views regarding the timeliness, accuracy, completeness and utility of DOLAR\$ management reports. The results indicated a high level of satisfaction with financial reporting from DOLAR\$. All but six of the 101 respondents reported satisfaction with the timeliness of the reports. Four out of five respondents stated that the completeness of the data was good to excellent. Seventy percent felt that the accuracy or quality of the reports was good to excellent.

The Boston regional staff successfully completed the "Boston Project, a pilot test of procedures for giving non-financial staff on-line access to DOLAR\$ data relevant to their operations to facilitate tracking and fund control." The project allowed client agency staff on-line/read only access to DOLAR\$ at a designated OASAM workstation. The procedure is being adopted on a nationwide basis.

Software containing Departmental and Federal standard forms, was developed and installed on area networks. Network personal computers can readily access the forms for use in administrative processing.

The Clerical Support Program (CSP) recently completed its third year of operation. In fulfillment of the Secretary's equal opportunity goals, program candidates were successfully sought through a vast majority of high schools and outreach organizations in D.C., and nearby Maryland and Virginia areas. Selected program entrants included, but were not limited to, members of culturally diverse groups and disabled individuals. The availability of the entry level clerical training program has been made available to all Departmental agencies. Since its inception, 62 CSP employees have been placed in permanent positions within the Department. A pilot effort will bring Job Corps trainees into the program.

In an effort to enhance the DOL college relations program and to solidify relationships with Historically Black Colleges and Universities, DPM staff led a 2-day conference with placement counselors from 31 of these institutions to acquaint them with the Department and our career opportunities.

In the ADP area, progress continues in researching, testing and applying new applications and processes to the requirements of the

DOL personnel community. Significant progress has been made in making downloaded data from the DOL automated personnel system available to the staffs of the 19 personnel offices. This data is available on file servers and for use on individual PCs. Personnel staffs can easily analyze this data with powerful application software (DBase, Lotus, etc.) and prepare automated reports for their own use and the use of managers and other clients.

Use of the innovative "win-win" negotiating techniques has already enhanced the Department's ability to carry out its labor management relations responsibilities. Successful contract negotiations with the National Council of Field Labor Locals were preceded by nationwide discussions by the management and union bargaining teams with their counterparts, and joint training in "win-win" bargaining techniques. Subsequent negotiations resulted in a contract which included a number of very progressive provisions benefiting both client DOL agencies and bargaining unit employees.

Extensive assistance was given the General Accounting Office to develop a guide to Strategic Human Resource Planning for the Federal Government. An interview questionnaire to be used in surveying Federal agency activities in the area of human resource planning was also developed.

The Division of Cost Determination, Office of Acquisition Integrity, has achieved cost savings of approximately \$5.5 million resulting from indirect cost rate negotiations, pre-award cost analysis and audit resolutions completed during FY 1991.

Retirement packages were delivered to OPM at an 85 percent timely rate during the third quarter which was well above the 75 percent OPM standard. Through the first three quarters of FY 1991, the percent of retirements processed within the 30-day window were 77, 87, and 85 percent, respectively.

Making DOL a Better Place to Work

The provisions of PL 102-25 that established a leave bank for reservist Federal employees who served in the Desert Shield/Desert Storm operation was carried out effectively. An open season was held from June 2 to July 13, 1991, for the contribution of leave.

The DOL Recycling Program was expanded to include the collection of aluminum cans, bottles and styrofoam. Canisters have been placed in all restrooms, the cafeteria and the elevator lobbies. Overall, the Office of Facilities Management reports that the program has continued to be a success with excellent employee participation.

Perimeter security of the Frances Perkins Building has been substantially improved with installation of a new closed circuit TV monitoring system.

Valuable books and documents, previously housed in the Library's general collection, will now be housed in the James F. Taylor Memorial Room. Dedicated by the Secretary in June, the room honors an outstanding Department of Labor employee of more than 50 years. The material will provide researchers with ready access to valuable manuscripts in a convenient location constructed to meet the climactic and security standards established for such facilities.

DOL employees who smoked were offered the opportunity to quit through workshops sponsored by the Department. Health education clinics regarding cholesterol, heart care, elder care, depression, practical defense, and a Persian Gulf support group were also established.

In keeping with the Secretary's commitment of making the Department of Labor a model workplace, the Secretary commissioned a task force to review the issue of sexual harassment in the DOL workplace and to make recommendations to ensure the DOL work environment is free of sexual harassment. One of the recommendations of the task force was to have mandatory sexual harassment training for all DOL managers, supervisors and employees. In conjunction with the DOL training academy, sexual harassment training has been provided for all managers, and supervisors in area offices will be trained during the first quarter of FY 1992. All employees will be trained within the next 12 months.

III. Federal Managers' Financial Integrity Act Update

A December 21, 1990, letter from former Acting Secretary DeArment to the President and the Congress identified 14 material weaknesses in internal controls, prescribed corrective actions to address those weaknesses, and provided a general target date for completing corrective actions for each of the weaknesses. The following information provides the current status of those corrective actions.

1. Job Training Partnership Act (JTPA) - Audit Coverage. Since 1986, ETA has conducted compliance reviews at States and Service Delivery Areas (SDAs) which have surfaced problems with the lack of Single Audit Act (SAA) coverage, accurate and useful information, and timely and adequate audit resolution. The Department of Labor's (DOL's) Office of Inspector General (OIG) issued an audit report on March 29, 1991, on the results of its review of SAA coverage, entitled Effectiveness of the SAA of 1984 in Providing Coverage to DOL Funds, (04-91-006-50-598). The OIG audit disclosed issues with SAA coverage similar to those found by ETA. The OIG found that limitations in coverage provided by JTPA were caused by incompatibility between the provisions of the SAA and the program's service delivery system. The OIG also found that the financial information contained in single audit reports was often too consolidated and sometimes too inaccurate to benefit Federal report users.

Both ETA and OIG agree that changes in SAA coverage and requirements are needed to correct the problems over the long term. The U.S. General Accounting Office is also in general agreement that changes in the SAA are needed. The Report of the House Committee on Education and Labor on H.R. 3033, "Job Training Reform Amendments," October 7, 1991, recommends that the Congress review the single audit requirements to make the SAA more applicable to the JTPA program. Until such changes are enacted, ETA will continue to address the issues through the JTPA oversight process. The ETA compliance reviews for Program Year (PY) 1991/Fiscal Year 1992 will assess the degree of improvement in audit coverage of JTPA funds, and focus on the timeliness and adequacy of audit resolution.

2. JTPA - SDA Procurement Systems. In 1990, two waves of special oversight reviews were conducted at a sample of SDAs on procurement policies and practices to identify any deficiencies, secure prompt corrective actions, and ensure program integrity. Followup on corrective actions for Waves I and II is currently being conducted. A third wave of the special reviews is also underway. It is anticipated that Wave III will be completed and all reports prepared by the end of October 1991.

The Administration's proposed JTPA Amendments, which were introduced in Congress in May 1991, would improve and strengthen procurement and fiscal integrity.

3. ERISA - Audit Process. One of the basic safeguards for the assets of employee benefit plans covered by ERISA is the requirement for audits to be conducted under certain circumstances by independent public accountants (IPAs). OIG audit reports over the last several years have raised concerns about the extent of these audits, the quality of the auditing work being performed in the ERISA area, and the need for better coordination with the accounting profession.

To better deal with the issues raised by the OIG and to enhance the accounting and auditing expertise within the agency, PWBA established an Office of the Chief Accountant in 1988 to provide a centralized unit which would focus on accounting and auditing related issues. An important function of this office is the operation of a quality control program relating to the work of IPAs. In FY 1991, the Office of the Chief Accountant (OCA) has made a significant progress in several key areas:

(1) OCA worked extensively with the American Institute of Certified Public Accountants (AICPA) in the revision of the AICPA's guide for the audit of employee benefit plans which was issued in March 1991;

(2) OCA participated with the AICPA in planning and presenting an Annual Employee Benefit Plans Update Conference; producing audit risk alerts and checklists for accounting practitioners and continuing professional education materials for accountants and other professionals who perform services for employee benefit plans; and has urged the AICPA to develop other opportunities for professional training in the ERISA area (a new self-study course will be available in mid-November 1991. In May 1992, the AICPA will present a lecture series in a number of major cities to provide training on the revised industry guide);

(3) OCA conducted in-house reviews of 1200 accountant's reports submitted with ERISA annual reports for compliance with professional standards;

(4) OCA initiated a program of on-site reviews of IPA audit work papers, and in FY 1991, conducted 26 such reviews based on the above mentioned in-house review of accountant's opinions and referrals from PWBA field offices of substandard work identified during investigations of employee benefit plans;

(5) OCA made extensive use of new enforcement authority under ERISA section 502 (c) (2) against plan administrators who

failed to obtain correction of deficient audit work. In FY 1991, OCA issued 692 letters rejecting ERISA report filings and assessed penalties of \$5.9 million against plan administrators who did not have a reasonable cause of failing to obtain adequate audits. In many instances, the plan administrators are seeking repayment from the plan auditor; and

(6) OCA made a total of 105 referrals to the AICPA's Professional Ethics Division and 10 referrals to state boards of accountancy. Of the 37 cases closed to date, the AICPA has recommended Trial Board action for 11 cases and required corrective actions and continuing professional education in 17 cases. In some instances, AICPA members have been required to submit additional work products for review after their training requirements have been fulfilled. The AICPA has reported that in the period from May 1986 through August 1991, PWBA has referred twice as many cases as any other government agency, and that the AICPA may expand its Professional Ethics Committee to have a subordinate unit dealing specifically with ERISA referrals.

In addition, extensive staff work was undertaken by PWBA's accounting, enforcement, policy and regulatory offices to explore legislative options in the areas of limited scope audits, peer review, compliance testing, direct reporting by IPAs to DOL of alleged violations, etc. Concurrently, after last year's review by the former Secretary of Labor of all Departmental enforcement strategies, the Department concluded that ERISA enforcement should be enhanced in several respects, and that statutory changes were required to implement these enforcement initiatives, including repeal of the limited scope audit provisions of the statute and the implementation of peer review requirements. As a result, ERISA enforcement legislation was introduced in November 1990, but no action was taken since it was at the end of the 101st Congress. During FY 1991, agreement was reached with the OIG regarding the resolution of the outstanding recommendations from their audit were approved by the Department's Policy Review Board for revisions to the ERISA enforcement proposal. The overall ERISA legislative package, which includes other issues in addition to those dealing with auditing, was considered by the Policy Review Board as part of the Department's legislative program for FY 1992.

4. Equity in State Employment Security Agency Real Property. A General Administration Letter (GAL) outlining real property requirements will be published shortly in the Federal Register for public comment. A supporting Field Memorandum will be issued to the regions following final approval of the GAL. A prototype for a real property monitoring and inventory system had been developed and tested. It is expected that the system will be installed and implemented by December 1991. Decisions on providing training and

conducting oversight on the administration of State Employment Security Agency (SESA) real property acquisition, use, and disposition have not been finalized.

5. JTPA - Return on Investment. The National Commission for Employment Policy (NCEP) is exploring the feasibility of using Unemployment Insurance (UI) wage record data to track post-program earnings of JTPA participants and make general comparisons between pre-and post-program changes. Phase I of the study has been completed, and the report is available. Phases II and III, which include a number of additional studies and reports, are continuing.

The ETA also contracted with SRI International for study on the programmatic impact of a 1988 DOL policy which allows States to exempt 6 percent (performance incentive grant funds) from the application of performance standards. The DOL policy was under taken to allow States to provide incentives for serving increased numbers of hard-to-serve individuals. The study has been completed, and the report is available.

A number of other studies are in progress and planned which will provide information on the "investment return" on policy choices and the overall impact of the JTPA program. These include:

a. A national JTPA study, with control groups and a random assignment design. This study will assist ETA in determining whether the program is having an impact which would occur absent the program--i.e., whether program services are having a net impact on later participant employment and earnings.

b. A study of the effects of the PY 1990 changes in performance standards on clients, services, and outcomes. This study is required by the Office of Management and Budget (OMB), and it will be conducted to determine the impact of PY 1990 performance standards and reporting changes on increased service to hard-to-serve participants; provision of quality/intensity of services; and promotion of skill attainments for adults and youth. Since final PY 1990 data will not be available until early 1992, ETA anticipates no concrete analysis until September 1993.

6. Management Controls over Departmental Enforcement Activities. In October 1990, the Department of Labor (DOL or the Department) completed a thorough evaluation of its enforcement programs. This process culminated in an in-depth document entitled "Report to the Secretary of the Enforcement Task Force." Many of the Task Force's recommendations were highlighted in DOL's FMFIA report.

Three milestones have been met since the publication of the semi-annual report.

1. Cross-Training of Enforcement Personnel -- A committee has been formed, chaired by the DOL Academy, to evaluate methods to cross-train investigative personnel to identify potential violations of regulations administered by other agencies within the Department.

2. Enforcement Data Base -- The DOL enforcement database steering committee, chaired by OASP, has completed the feasibility study on an automated system to present summary level enforcement information to senior management and has presented its findings to the PRB (a pilot system is expected to be operational in the first quarter of FY 1992).

3. Design of Criminal Investigations Framework -- The Acting Assistant Secretary for Policy met with criminal enforcement coordinators to discuss agency efforts to improve criminal enforcement. Each agency has or is putting into place a systematic approach to criminal enforcement including the following elements:

- * Designated criminal enforcement coordinators to provide internal agency oversight;
- * Criminal investigation training programs;
- * Detailed procedures including case selection criteria;
- * Accurate record systems, which provide information on why a criminal investigation was or was not pursued; and
- * Guides to assist DOJ and the U.S. Attorneys in prosecuting DOL cases.

7. **Oversight of State UI Tax Collection.** In 1990, ETA developed the Revenue Quality Control (RQC) design to assess States' collection of accounts receivable. This design, incorporating (1) proposed indicators of success with data to electronically reported and (2) a survey to identify and disseminate exemplary collection practices, was issued to all interested parties for comment. In 1991, the RQC design will be refined and undergo pilot testing. During 1992, findings from the pilot test will be evaluated, the design will be further modified, and implementation tasks, such as writing regulations, obtaining OMB approval for data collection, and training SESA staff to operate the RQC, will be performed. Mandatory implementation of the RQC design, covering UI tax collection of accounts receivable, is scheduled for 1993.

8. **Unemployment Trust Fund (UTF) - Cash Management.** With the enactment of the Cash Management Improvement act (PL 1-1-453) on

October 23, 1990, ETA began revising its approach to State UTF cash management. The UTF is specifically addressed in the legislation.

The legislation provides for States to deduct related banking costs from actual interest earnings on balances in benefit payment accounts and to rerun excess earnings to its account in the UTF. The legislation requires the U.S. Department of Treasury to issue regulations and execute individual State agreements to implement drawdown, disbursement, and interest exchange provisions of the Act. Treasury has instituted a Federal Agency Task Force to assist it in that effort. The ETA's Unemployment Insurance Service (UIS) staff are members of that Task Force and are assisting in the development and negotiation of UTF provisions of State agreements. By law, the regulations and State agreements must be instituted by October 23, 1992. New cash management performance measures and revised reports will be developed in accordance with the Act and regulations.

All States, and territories except Puerto Rico, with UTF accounts are on-line and using the State Unemployment Data System (SUDS) to requisition funds daily. The SUDS in conjunction with FEDWIRE allows same day delivery of requests for almost every State (time zone differences may delay a limited number of States), thereby lowering balances in benefit payment accounts.

9. UI - State Trust Fund Accounting. The ETA has consulted with OIG and reached agreement on corrective actions required to resolve five outstanding recommendations in related 1985 and 1990 OIG audit reports pertaining to the operation of experience rating in the States' UI programs' tax systems. On September 28, 1990, ETA submitted work plans which addressed these recommendations and critical corrective action milestones. On October 10, 1990, OIG resolved the recommendations. The ETA's agreements to (1) facilitate SESA efforts to improve UTF accounting systems through guidance letters, technical assistance, and direct funding, where applicable, of related automation grants and (2) review Federal reporting requirements to ensure integration between the UTF accounting systems and the reporting structure, both to be accomplished over the next 2 years, will resolve these audits completely. Closure of the recommendations will be accomplished upon implementation of a revised reporting system that fully considers the interrelationships of the financial reports and the State accounting systems.

Guidance letters have been issued transmitting the OIG report and recommendations on accounting and the Model Trust Fund Accounting and Reporting System. Technical assistance is being provided to the States, and direct funding of related automation grants, where applicable, is part of the annual automation grant funding process. The workgroup is also reviewing UI reports in relationship to the UI data base (automated reporting system).

The OIG participated in various UI conferences, including panels at the National UI Directors' Meeting and the Region IV Tax Conference, in November 1990 and on a tax accounting panel at the National UI Tax Conference in April 1991.

10. Mine Plan Approvals - Ventilation. Guidelines have been developed for use by MSHA and the industry for ventilation plan contents, evaluations, revisions, dust and methane plan components, management responsibilities, and plan approval delegations. Additionally, guidelines have been developed relating to improving communications on mine ventilation plans.

A procedural handbook on mine plan approval has been prepared for publication. A follow-up evaluation of the ventilation survey project is scheduled for FY 1992.

11. CPI System Back-up Plan. In 1990 BLS reported one significant weakness in the FMFIA report - the lack of a back-up plan for the Consumer Price Index (CPI) system used to capture prices, flag prices for professional review, and perform some index calculations. During the reporting period, alternate query facilities were developed and tested providing a back-up in the event of failure of one subsystem component of the CPI microcomputer environment.

Due both to the uniqueness of the database machine as well as the unique configuration in a PC/LAN environment, there is no easy way to back-up the entire system. BLS will continue to pursue discussions with senior executives at the company which supplied the system to look for options to provide a prompt replacement for the entire system in the event of a disaster.

12. Job Corps - Attendance System. Final revised procedures for student pay and accountability were published and distributed to the field on July 29, 1991, to become effective November 1, 1991. The Job Corps Center compliance/quality assessment guide is being revised to reflect these new policies and procedures.

Work is progressing on schedule on the development of the new integrated student based data system. The ETA anticipates that the system will go into effect in December 1992. The OIG is assisting the Office of Job Corps (OJC) in the development of a framework for the new system.

13. Job Corps - Allowance Payment System. The OJC is progressing on schedule in the multi-year effort to modernize and integrate the Job Corps student pay system with the student management information system. Technical specifications and financial management requirements were cleared with all appropriate parties, including the U.S. Department of Treasury, and the system development and implementation contract was issued by DOL/Office of the Assistant Secretary for Administration and Management in July

1991. The new integrated system is scheduled to go on-line in November 1992. The OJC will continue to receive technical input and advice from OIG in the development of a framework for the new system.

14. **JTPA - Standard Contract Elements.** The development of the "live" JTPA Procurement Training Course was completed in April 1991. The ETA has presented the 3-day course in three of the five planned sites. To date, over 300 State and local JTPA staff have participated in the training. The final two presentations will be completed by December 1991.

IV. Management's Audit Resolution and Closure Activity **(April 1, 1991 through September 30, 1991)**

The Inspector General Act Amendments require explanations for those audit reports with recommendations open for more than one year. As of September 30, 1991, the Department had 28 open audit reports totaling \$3,258,912 and 72 non-monetary reports that require discussion. At the end of the reporting period, there were 372 audit reports totaling \$589,527,565 requiring final action (Exhibits I and II).

Currently, 254 audit reports have been open for over one year. The total value of open audits of \$556,991,049 covers 2,008 separate recommendations. The current status of these amounts is as follows:

	(in millions of dollars)
Affected amounts in 2,006 recommendations over one year old	\$556,991
Less:	
Value of 988 closed recommendations	- 159,558
Funds Put To Better Use	- 296,054
Value of 476 open recommendations under administrative law or Federal Court appeal	- 86,974
Amounts referred or in process of referral to the Department of Justice for disposition	- <u>11,147</u>
Balance of open audits requiring further disposition	<u>\$ 3,258</u>

Exhibit IV identifies the current status of the audits requiring further disposition. Nearly all are either awaiting payment schedules or other documentation, are in the process of referral to the Department of Justice for disposition, or in some form of

debt collection processing before closure can be officially recorded. The Exhibit also lists the 72 open non-monetary audit reports that require further disposition. In most of these cases, the audits remain open because the response to the open recommendations requires long term solutions that cannot be completed within one year. The reporting requirements of the Inspector General Act require explanations for all audits open beyond one year even though the management and audit communities agree that audit resolution requires corrective action of several years. Exhibit V identifies the status of audit reports with recommendations for funds to be put to better use.

Summary Management Figures of Audits
With Disallowed Costs
October 1, 1990 through March 31, 1991

	<u>Number of Audit Reports</u>	<u>Disallowed Costs</u>
A. Audit reports with management decisions on which final action had not been taken at the beginning of the period.	433	\$623,916,191
B. Audit reports on which management decisions were made during the period.	<u>237</u>	<u>115,177,107</u>
C. Total audit reports pending final action during period. (A plus B)	670	739,093,298
D. Audit reports on which final action was taken during the period.		
1. Recoveries.		
(a) Collections and offsets.		8,335,066
(b) Property.		5,546
(c) Other.		6,305,220
(d) Value of recommendations implemented.		100,000,000
2. Write-offs.	—	<u>34,899,901</u> (1)
3. Total of 1 and 2.	298	149,565,733
E. Audit reports needing final action at the end of the period. (C less D3)	<u>372</u>	<u>\$589,527,565</u> (2)

- (1) This amount includes terminations and compromises reached by the Department of Justice and the Department of Labor, interest waived and previously disallowed costs subsequently allowed by a grant/contract officer upon receipt of sufficient justification.
- (2) This amount includes \$404,257,144 in costs which the OIG recommended be put to better use as shown on Exhibit V. Exhibit II provides detail by agencies of the Department.

BLANK PAGE

SUMMARY OF DISALLOWED AUDIT COSTS BY AGENCY
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991
(in thousands of dollars)

AGENCY	AUDIT REPORTS PENDING FINAL ACTION AS OF 04-01-91		INCREASES FROM MANAGEMENT DECISIONS MADE		DECREASES FROM FINAL ACTION TAKEN			AUDIT REPORTS PENDING FINAL ACTION AS OF 09-30-91	
	REPORTS	AMOUNTS DISALLOWED	REPORTS	AMOUNTS DISALLOWED	REPORTS	AMOUNTS WRITTEN-OFF	AMOUNTS RECOVERED	REPORTS	AMOUNTS DISALLOWED
ETA	339	\$606,400	168	\$101,303	225	\$34,897	\$110,965	282	\$561,841
OASAM	23	13,526	14	2,826	18	2	3,279	19	13,071
OSEC	1	0	3	8,254	2	0	0	2	8,254
VETS	5	361	0	0	1	0	0	4	361
OSHA	11	173	6	313	9	0	393	8	93
Multi-Agency	40	3,455	33	2,478	28	0	26	45	5,907
Program Reports(1)									
Other DOL Agencies(2)	14	0	13	2	15	0	2	12	0
TOTAL	433	\$623,915	237	\$115,176	298	\$34,899 (3)	\$114,665	372	\$589,527 (4)

* Detail may not add due to rounding.

(1) Multi-agency program reports relate to Single Audit reports only. The report may be on a statewide audit where DOL has accepted "lead" cognizency or it may be on a single entity under the direct responsibility of DOL.

(2) Other DOL agencies relate to the remainder of the Department's agencies that do not have significant dollar amounts under audit review.

(3) Of this amount \$34,899 was written-off as the result of a Federal court decision, or through an administrative appeal process.

(4) This amount includes \$404,257,144 in costs which the OIG recommended be put to better use shown on Exhibit V.

BLANK PAGE

BLANK PAGE

STATUS OF RECOMMENDATIONS IN OPEN AUDITS OVER ONE YEAR
(in thousands of dollars)

AGENCY	TOTAL RECOMMENDATIONS AS OF 09-30-91		CLOSED RECOMMENDATIONS (1)		OPEN RECOMMENDATIONS		OPEN RECOMMENDATIONS UNDER APPEAL			OPEN RECOMMENDATIONS NOT UNDER APPEAL (2)			
	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	JUDICIAL	ADMINISTRATIVE	LEGISLATIVE	NUMBER	AMOUNT
									APPEAL	APPEALS	REMEDY		
ETA	1,555	\$553,441	724	\$159,349	831	\$394,092	460	\$83,936	\$5,852	\$78,048	0	371	\$310,157
OSHA	38	93	5	0	33	93	0	0	0	0	0	33	93
OASAM	105	163	67	0	38	163	2	7	0	7	0	36	156
BLS	16	0	0	0	16	0	0	0	0	0	0	16	0
ESA	32	0	22	0	10	0	0	0	0	0	0	10	0
PMBA	2	0	1	0	1	0	0	0	0	0	0	1	0
MULTI-AGY	258	3,294	169	209	89	3,085	14	3,031	0	3,031	0	75	54
TOTAL	2,006	\$556,991	988	\$159,558	1,018	\$397,433	476	\$86,974	\$5,852	\$81,086	0	542	\$310,459

(1) Recommendations totaling \$159,558 that have already been resolved and closed are contained in audit reports that have additional open recommendations which, under the Inspector General Act Amendments, determines that the audit report must remain open.

(2) These amounts are in agreement with the Department's Office of the Inspector General audit tracking system. Some of these cases have been referred to the Department of Justice for litigation, collection, or termination. The dollars affected are as follows:

Description	Amount	Reference
Dollar Balance/ Open Recommendations	\$ 310,459	
less:		
Funds Put to Better Use	296,054	Exhibit V, (footnote)
Audits Referred to DOJ	10,316	Exhibit III, Table 2
Audits to be Referred to DOJ	831	Exhibit III, Table 3
Balances Requiring Explanation	\$3,258	Exhibit IV

BLANK PAGE

CASES REFERRED TO THE DEPARTMENT OF JUSTICE

<u>SPONSOR NAME</u>	<u>AUDIT NUMBER</u>	<u>DOJ REFERRAL DATE</u>	<u>REFERRAL AMOUNT</u>
City of Brockton	02-83-450-03-345	09/25/87	\$ 298,121
Indian Centers Inc.	09-85-074-03-355	01/19/88	2,255,819
Indian Centers Inc.	11-83-014-03-355	01/19/88	1,300,621
North American Ind Club	17-87-045-03-355	12/01/88	125,032
Oakland County	05-83-209-03-345	02/12/90	78,274
Sacramento Concilio	11-77-386-03-365	02/26/88	1,625
American Ind Higher Ed	11-76-677-03-365	03/31/86	10,737
Sacramento Concilio	11-77-030-03-365	02/26/88	2,013
Central Coast Cty Dvlp	11-81-007-03-365	04/28/88	362,764
Evangeline Comm Act Inc.	11-82-033-03-350	07/29/88	17,749
East St. Louis	05-82-028-03-345	01/23/84	4,500,175
Amer Ind Nurses	11-79-078-03-355	02/10/88	30,116
American Ind Nurses	11-79-077-03-355	02/10/88	10,927
Sacramento Ind Center	11-78-360-03-355	09/06/85	9,907
St. Clair County	05-85-032-03-345	05/14/91	62,977
Clark Phipps	11-84-247-03-350	01/23/91	500,522
King County	09-84-529-03-345	09/24/90	97,467
King County	09-84-529-03-345	09/24/90	466,670
King County	10-83-059-03-350	09/24/90	9,783
Latin American Task Force	11-81-194-03-365	09/27/91	1,470
Latin American Task Force	11-79-152-03-365	09/27/91	12,960
Latin American Task Force	11-78-328-03-365	09/27/91	4,390
Milton Reporting, Inc.	11-84-105-07-741	03/20/85	123,853
J.D. Catten and Assoc.	11-84-358-07-741	09/30/85	32,468
			<hr/>
			\$10,316,440

BLANK PAGE

CASES TO BE REFERRED TO THE DEPARTMENT OF JUSTICE

<u>SPONSOR NAME</u>	<u>AUDIT NUMBER</u>	<u>REFERRAL AMOUNT</u>
Consortium Venture	11-81-301-03-350	71,877
Recr. Training Program	11-82-249-03-350	356,162
Northwest Rural Opportunities, Inc.	09-85-014-03-365	254,079
Northwest Rural Opportunities, Inc.	11-82-109-03-365	149,045
		<hr/>
		\$ 831,163

BLANK PAGE

OPEN MONETARY AUDITS OVER ON YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
1. Crow Creek Sioux Tribe	ETA	09/28/81	11-77-037-03-032	\$ 11,667	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
2. Crow Creek Sioux Tribe	"	09/01/81	11-79-079-03-355	16,361	Same as above.
3. Crow Creek Sioux Tribe	"	08/30/82	11-82-052-03-355	80,000	Same as above.
4. Crow Creek Sioux Tribe	"	09/03/81	11-77-046-03-355	1,078	Same as above.
5. Crow Creek Sioux Tribe	"	04/18/84	11-83-442-03-355	13,000	Same as above.
6. Omaha Tribe	"	03/25/82	11-81-054-03-355	71,985	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
7. Omaha Tribe	"	01/15/85	11-83-043-03-355	55,527	Same as above.
8. Yankton Sioux Tribe	"	03/31/82	11-81-239-03-355	555,440	To be referred to GAO as "doubtful claim" to determine what action should be taken. The Grantee designation as a JTPA grantee has been withdrawn.
9. Yankton Sioux Tribe	"	07/27/81	11-79-291-03-355	7,508	Same as above.
10. Santee Sioux of Nebraska	"	08/04/80	11-78-294-03-355	43,526	The Department is seeking a comprehensive settlement in conjunction with a current claim.
11. Santee Sioux of Nebraska	"	07/25/80	11-77-329-03-355	12,530	Same as above.
12. Santee Sioux of Nebraska	"	07/23/90	11-83-169-03-355	119,047	Same as above.
13. Texas Association of Dev. Colleges	"	03/07/83	11-82-134-03-340	11,982	To be referred to the ETA grant officer for final disposition.

BLANK PAGE

OPEN MONETARY AUDITS OVER ON YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
14. Delmarva Ecumenical Agency	ETA	03/10/81	11-79-128-03-350	11,024	To be referred to the ETA grant officer for final disposition.
15. Green Thumb	"	02/15/85	11-83-023-03-360	9,199	Under non ALJ-type administrative review. (When final determination issued, no formal appeal rights were available for Older Worker grants.)
16. Green Thumb	"	09/25/81	11-78-244-03-360	255,780	Same as above.
17. YMCA Metro Denver	"	09/18/81	11-79-154-03-350	1,507	Final resolution discussions are in process between grantee and ETA grant officer.
18. Center for Employment Training	"	05/16/86	09-85-058-03-365	19,472	Post resolution negotiations completed between grantee and grant officer. First demand letter to be sent.
19. Rural NY Farmworkers	"	09/15/81	11-80-172-03-365	12,376	To be referred to the ETA grant officer for final disposition.
20. Motivation Education and Training	"	06/30/86	09-85-029-03-365	70,368	Settlement of this debt is in process.
21. Cooperative Personnel Services	"	06/27/90	09-90-500-03-355	6,096	Final resolution discussions occurring with the regional grant officer.
22. Trust Territory	"	07/25/90	09-90-531-03-340	6,990	To be referred to GAO as "doubtful claim".
23. Trust Territory	"	12/03/86	11-86-046-03-340	16,845	Same as above.
24. Boston Indian Council	"	09/05/90	18-90-019-03-355	147,983	Awaiting final order from bankruptcy court.
25. Ind. Unemployment Trust Funds Equity Int. In.	ETA	05/03/89	04-89-139-03-325	1,480,000	In negotiation with Indiana State Office Building Commission.
26. Pacific Northwest Labor College	OSHA	05/13/85	09-84-532-10-101	90,760	The Assistant Secretary of OSHA has requested authority to terminate collection action, since the organization is dissolved with no leads for personal liability.

BLANK PAGE

BLANK PAGE

OPEN MONETARY AUDITS OVER ON YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	DOL AGENCY	REPORT ISSUE DATE	AUDIT NUMBER	DEBT AMOUNT	COMMENTS
27. Industrial Comm. of Arizona	OSHA	08/10/90	09-90-592-10-101	1,861	The outstanding debt is expected to be paid within the next month.
28. Audit of Data Transformation	OASAM	09/29/89	09-89-006-03-310	129,000	The contractor has been informed of the Procurement Offices final decision and collection action is expected in the next reporting period.
				<u>\$ 3,258,912</u>	

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
ETA				
1. Job Training Partnership Act (JTPA) Participant Training and Employment - Report I	01/25/88	06-86-801-03-340	1	ETA is continuing its cooperative effort with the National Commission for Employment Policy and will explore the feasibility of using Unemployment Insurance record data to track post-program earnings of JTPA participants. A final report is expected in March 1992.
2. JTPA Service Provider Contracts - Report II	09/28/88	06-88-802-03-340	1	The recommendation has been resolved. Progress continues on the outstanding aspects of this audit. The estimated completion date is December 1991.
3. Management Advisory Comments for ETA, September 30, 1986	09/30/88	12-88-010-03-001	2	Progress continues on the two remaining outstanding recommendations to bring them to closure. The ETA is currently in the process of replacing its financial and management information system (Regional Automation System (RAS)), and closure of the report is predicated on the implementation of the new system. Estimated implementation date is September 1993.
4. ETA Financial Statements and Independent Auditors' Reports, September 30, 1987, and 1986	03/31/89	12-88-013-03-001	6	The six recommendations pertaining to this audit were resolved in FY 1989. Progress continues on the outstanding aspects of this audit. The proposed ETA 227 revision has been submitted to OMB for approval. The ETA is currently reviewing those items which could not be reconciled to DOLARS to determine the appropriate disposition.
5. Management Advisory Comments for ETA, September 30, 1987	03/31/89	12-88-017-03-001	9	All recommendations have been resolved. Progress continues on the outstanding aspects of this audit to bring them to closure. The ETA is in the process of replacing RAS, and closure of the audit is predicated on implementation of the new system. Estimated implementation date is September 1993.
6. Job Corps Financial Statements and Auditors' Report, September 30, 1987	03/31/89	12-87-023-03-370	4	All findings were resolved in FY 1989. Progress continues to replace and modernize/integrate two major ETA financial and management information systems--(1) RAS and (2) Job Corps student based data systems. It is anticipated that the RAS replacement system will be implemented in September 1993, and the new Job Corps system will go into effect in December 1992.

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
7. ETA Financial Statements and Independent Auditors' Reports, September 30, 1988, and 1987	09/27/89	12-89-001-03-001	5	All recommendations have been resolved. Progress continues on the outstanding aspects of this audit. Closure of the audit is predicated on the implementation of the RAS replacement system. Estimated implementation date is September 1993.
8. Classroom Training Crossmatch	09/29/89	02-89-260-03-340	2	All recommendations have been resolved. A Training and Employment Guidance Letter (TEGL) has been prepared, and is currently at OMB for approval. The issuance of the final TEGL should bring this audit to closure.
9. UI Experience Rating Economy and Efficiency Audit	08/16/85	03-83-203-03-315	1	Audit has been resolved. Closure of this 1985 report is predicated on implementation of corrective actions for the 1990 report, entitled "The UI Program Needs to Improve the Internal Controls Over Trust Fund Accounting and Reporting Activities," 03-90-086-03-315. Corrective actions for the 1990 report is expected to be implemented by 1997.
10. UI Program Needs to Improve Internal Controls Over Trust Fund Accounting and Reporting Activities	01/25/90	03-90-086-03-315	5	All issues have been resolved. Corrective actions are expected to be implemented by 1997.
11. UI Experience Rating Followup, State of Delaware	10/16/89	03-89-068-03-315	11	All issues have been resolved. Progress continues on the outstanding aspects of this audit to bring them to closure.
12. UI Experience Rating Followup, State of West Virginia	11/03/89	03-89-066-03-315	8	All issues have been resolved. Closure of this audit is predicated on implementation of corrective actions.
13. UI Experience Rating Followup, State of New Jersey	11/09/89	03-89-065-03-315	6	All issues have been resolved. Closure of this audit is predicated on implementation of corrective actions.
14. Examination of Federal Employees' Compensation Account	05/16/90	12-90-012-03-315	5	All issues have been resolved. Closure is predicated on implementation of corrective actions.
15. ETA's Information Resources Management Program Needs Improvement	09/11/89	19-89-001-03-001	18	All issues have been resolved. Corrective actions have been completed, and supporting documentation is being readied for transmittal to OIG for review and evaluation.
16. Improvement Needed in Management of ETA's Local Area Network	05/02/90	19-90-005-03-001	23	All issues have been resolved. Corrective actions have been completed, and supporting documentation is being readied for transmittal to OIG for review and evaluation.
17. CAIC, Limited Scope Review of Program	11/17/89	18-90-004-03-355	3	Audit has been resolved. Corrective actions expected to be

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
Accomplishments				completed by December 31, 1991.
18. DOL Basis/Equity in State-Owned Real Property	01/25/91	04-90-002-03-325	6	Recommendations have been resolved. Estimated corrective action completion date is December 1991.
19. New Jersey Trust and Agency Funds	03/31/87	02-86-052-03-315	2	Corrective action expected by November 30, 1991.
20. Pennsylvania Office of Employment Security	07/18/88	05-88-010-03-315	1	Corrective action expected by January 31, 1992.
21. Commonwealth of Massachusetts Single Audit	03/14/89	02-88-191-03-325	3	Documentation from Grantee being reviewed by Regional Office. Corrective action expected to be completed by November 30, 1991.
22. State of Delaware FY 1987	11/22/89	03-89-012-03-325	2	Documentation under review by Regional Office. Corrective action expected to be completed by October 31, 1991.
23. State of Tennessee SAA FY 1987 (SESA)	06/09/89	04-88-126-03-325	1	Corrective action being reviewed by Regional Office. Corrective action expected to be completed by October 31, 1991.
24. State of Missouri	08/03/89	05-89-021-03-325	1	Five administrative findings resolved June 28, 1991. Corrective action on remaining finding expected by April 30, 1992.
25. State of New York A-128	10/17/88	02-88-113-03-340	1	Corrective action expected by November 30, 1991.
26. Potowatomi Indian Nation, Inc., A-128	12/20/88	05-88-082-03-355	3	Corrective action expected by June 30, 1992.
27. Office of Economic Opportunity, Puerto Rico	04/15/90	02-89-277-03-340	5	Corrective action expected by June 30, 1992.
28. WV, Governor's Office of Economic and Community Development	12/05/89	03-89-011-03-340	14	Awaiting WV Office of Economic and Community Development's reorganization.
29. Michican DOL-Bureau of E & T	10/21/88	05-86-080-03-340	2	OIG reviewing corrective action.
30. Oglala Sioux Tribe	02/29/88	05-87-015-03-340	2	Corrective action expected by June 30, 1992.
31. Texas Department of Community Affairs	10/20/89	06-89-102-03-340	5	Corrective action expected by November 30, 1991.
32. Texas Department of Community Affairs	05/26/89	06-89-107-03-340	1	Corrective action expected by November 30, 1991.
33. North American Indian Cultural Center	01/12/90	05-89-043-03-355	7	Corrective action expected by April 30, 1992.

BLANK PAGE

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
34. South Dakota Oglala Sioux Tribe	12/01/88	06-88-301-03-355	1	Corrective action expected by January 31, 1992.
35. Confederated Salish and Kootenai Tribes	06/29/89	06-89-262-03-355	3	Corrective action expected by November 30, 1991.
36. Confederated Salish and Kootenai Tribes	01/26/90	06-89-291-03-355	1	Corrective action expected by January 31, 1992.
37. Guam, Government of	11/10/87	09-87-528-03-360	1	Corrective action expected by November 30, 1991.
38. Centro Campesino The Farm Workers	10/26/89	04-89-138-03-365	1	OIG reviewing corrective action.
39. Hudson Institute	04/11/89	05-88-019-03-380	2	OIG reviewing corrective action.
40. Commonwealth of Pennsylvania FY 86	12/07/89	03-89-017-50-598	1	Corrective action expected by November 30, 1991.
41. D.C. Department of Employment Services	03/30/90	03-89-034-50-598	1	Corrective action expected by November 30, 1991.
42. Indiana Employment Security Division	03/29/90	05-89-057-50-598	5	Corrective action expected by January 31, 1992.
43. State of Maine Single Audit	02/13/90	02-89-203-50-598	2	Corrective action being reviewed by Regional Office. Corrective action expected to be completed by January 31, 1992.
44. State of Rhode Island Single Audit	02/13/90	02-89-208-50-598	2	Corrective action being reviewed by Regional Office. Corrective action expected to be completed by January 31, 1992.
45. Illinois Department of Commerce and Community Affairs	11/27/89	05-89-072-50-598	3	OIG reviewing corrective action.
46. State of Texas	01/15/89	06-89-127-50-598	6	Corrective action expected by January 31, 1992.
47. State of Colorado	02/20/90	06-89-141-50-598	2	Corrective action expected by January 31, 1992.
48. Cherokee Nation of Oklahoma	03/23/90	06-90-252-50-598	1	Corrective action expected by November 30, 1991.
49. Michigan Employment Security Commission	09/12/90	05-90-031-03-325	2	Corrective action expected by April 30, 1992.
50. Nebraska Indian Inter-Tribal Development Corporation	09/12/90	05-90-036-03-355	8	Corrective action expected by May 31, 1992.
51. National Council of Senior Citizens, Inc.	09/17/90	03-90-031-03-360	3	Corrective action expected by June 30, 1992.
52. State of Colorado	08/20/90	06-90-115-50-598	2	Corrective action expected by June 30, 1992.

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
53. Commonwealth of Massachusetts	06/04/90	02-90-203-50-598	4	Corrective action expected by June 30, 1992.
54. State of Tennessee SAA FY 1988	04/24/90	04-90-012-50-598	4	Corrective action expected by June 30, 1992.
<u>OASAM</u>				
55. OASAM Procurement (CARE)	03/31/88	05-87-028-07-001	1	Closure delayed until new DOLARS Accounts Payable and Procurement Module come on-line.
56. FY88 DOL Consolidated Statement	09/30/88	12-87-022-07-001	2	One of 3 recommendations requiring OASAM action has been closed. Documentation needed to close the other 2 has been provided to the OIG. The remaining 2 recommendations are charged to ETA.
57. FY87 DOL Consolidated Financial Statement Audit	03/31/89	12-88-009-07-001	2	Documentation for 3 recommendations has been presented to the OIG. However, FY 1991 audit will validate that the policies and procedures have been implemented. Some enhancement of RAS processes has been made but full implementation of these recommendations awaits completion of work on the RAS replacement system (GCMIS).
58. DOLARS Report: User Satisfaction System Development Audit Report	09/27/90	19-90-009-07-710	3	Documentation to close this audit has been provided to the OIG. Closure awaits their review.
59. Comptroller's Office Financial and Management Information System	01/21/88	12-87-003-07-711	5	Documentation to close this audit has been provided to the OIG. Closure awaits their review.
60. Survey of the Automated Purchasing and Payment System	09/29/88	19-87-049-07-720	1	Only one recommendation for this audit remains open. This is because issues presented in the closure of this recommendation require a change in funding priorities and cost considerations. These issues are under review.
61. ECN: Its Uses and Impact	09/27/90	19-90-010-07-720	8	Documentation to close this audit has been provided to the OIG. Closure awaits their review.
<u>OSHA</u>				
62. OSHA Final Report -- Financial Statements	09/25/89	05-89-067-10-001	4	OSHA has submitted the necessary documentation to close three of four open recommendations. The fourth item, concerning the grace period for penalty assessments is still subject to negotiation.

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

REPORT NAME	REPORT ISSUE DATE	REPORT NUMBER	OPEN RECOMMENDATION	COMMENTS
63. OSHA's Annual Report to the President can be improved	06/28/90	05-90-035-10-001	3	The Office of Program Evaluation has revised the annual report format to develop a new, thematic approach. Executive Staff are analyzing the information, and cost data will be included as feasible. Submission of the report to the Department is expected in April 1992.
64. OSHA not Targeting Employers with History of Workplace Fatalities	03/10/87	02-87-012-10-105	4	In 1991, OSHA conducted four pilot projects designed to test the feasibility of targeting systems in the construction industry. As a result of data received, three field tests will be conducted in 1992 to further evaluate the proposed systems.
65. OSHA -- 11(c) Employee Discrimination Complaint Program	02/21/89	05-88-083-10-105	4	The pilot programs in Regions I, V and IX have been completed and the results have been evaluated. A decision has been made to continue operating the programs in the same manner in order to make further evaluations.
66. OSHA Monitoring of State Programs	01/30/89	05-89-029-10-105	8	Three of the five task groups of Federal and state representatives participating in the monitoring revision project have completed their products, and a fourth is nearing completion. The revised Part II of the State Plan Policies and Procedures Manual is expected to be implemented in 1992. However, recent events related to a workplace disaster in North Carolina, and Congressional action on OSHA reform, may require modifications to the project.
ESA				
67. Employment Standards Administration - FECA	09/29/89	06-89-001-04-431	1	The recommendation relating to interest payments was dropped by the OIG. This report should be closed by next reporting period.
68. LSHW Internal Control Management Letter FY 1989	03/30/90	03-90-014-04-432	5	The report will be closed with the issuance of the revised Rehabilitation Manual in November 1991.
69. Private vs. Federal Workers Compensation Programs	08/01/88	02-86-037-04-435	3	ESA has submitted another status report describing progress on each of the three open recommendations on August 1, 1991. Corrective actions expected to be completed by November 1992.

BLANK PAGE

OPEN NON-MONETARY AUDITS OVER ONE YEAR REQUIRING
FURTHER DISPOSITION
APRIL 1, 1991 THROUGH SEPTEMBER 30, 1991

EXHIBIT IV

<u>REPORT NAME</u>	<u>REPORT ISSUE DATE</u>	<u>REPORT NUMBER</u>	<u>OPEN RECOMMENDATION</u>	<u>COMMENTS</u>
70. FECA Data Base Analysis	03/30/90	02-90-209-04-431	1	All of the necessary actions have been taken and the OIG will be advised shortly. This audit will be closed next reporting period.
<u>PMBA</u>				
71. PMBA's Public Disclosure Function	09/20/89	09-89-001-12-001	1	All recommendations were resolved on April 19, 1990. However, the OIG has kept this record "open" until final arrangements were completed for a contractor to operate PMBA's public disclosure room, which occurred on October 1, 1991.
<u>BLS</u>				
72. Effectiveness of Procured Goods and Services	09/28/90	17-90-015-11-001	16	Progress continues on implementation of recommendations from the OIG's audit. Six of the recommendations have been completed.

BLANK PAGE

Summary of Audit Reports With Recommendations to
Put Funds To Better Use
October 1, 1990 through March 31, 1991

	<u>Number of Audit Reports</u>	<u>Funds To Be Put To Better Use</u>
A. Audit reports with management decisions on which final action had not been taken at the beginning of the period.	6	\$396,002,746
B. Audit reports on which management decisions were made during the period.	<u>2</u>	<u>108,254,398</u>
C. Total audit reports pending final action during period. (A and B)	8	504,257,144
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed).	1	100,000,000
2. Value of recommendations that management concluded should not or could not be implemented or completed.	<u>-0-</u>	<u>-0-</u>
3. Total of 1 and 2.	<u>1</u>	<u>100,000,000</u>
E. Audit reports needing final action at the end of the period. (C less D3)	<u>7</u>	<u>\$404,257,144 (1)</u>

(1) With the exception of one audit report totaling \$8,254,398, the remaining audit reports which total \$396,002,746 pertain to the Employment and Training Administration. Of this amount \$296,000,000 in report No. 04-90-002-03-325 represents the total cost basis of real property acquired by State Employment Security Agencies (SESAs) with Federal grant funds. This recommendation will be closed by ETA's issuance of revised instructions to SESAs on accounting for and disposing of real property.

END

DATE FILMED

03/13/92